

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
CIVIL DIVISION**

)	
)	
PLAINTIFF(S),)	
)	
v.)	
)	
)	CV: _____
)	
)	
DEFENDANT(S).)	

SCHEDULING ORDER AND TRIAL SETTING

As a result of the Status Conference, the following is ordered:

1. This case is assigned to the _____ **track.**
2. **The case is set for (Jury/Non-Jury) trial on _____ at 9:00 a.m. in Courtroom ___, Jefferson County Courthouse, Birmingham. The provisions of Exhibit A attached hereto apply to the trial of this action.**

This case **shall** be disposed of on or before the trial date, unless the court grants a timely filed Motion for Continuance for good cause shown. The parties are advised that the fact that the trial setting is a first setting, that the parties have agreed to a continuance, that discovery has not been completed, or other such reasons will **not** be considered “good cause.”

3. All pending written discovery shall be responded to **within _____ days.**
4. All parties shall be noticed for their depositions so that the depositions may take place and be completed no later than _____. All other fact discovery, including all depositions, shall be initiated in time to be completed by _____, **the discovery cut-off date.**
5. The parties must be mindful of their discovery obligations. Discovery requests must be neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action. Objections are deemed waived if not timely asserted in response to discovery requests. Objections must be specifically tailored to the request at issue – general or boilerplate objections shall be given no

effect. All requests for admission that are not timely denied are deemed admitted. The parties must also heed Ala.R.Civ.P. 37(a)(4), which generally authorizes an award of attorneys' fees to the successful party upon adjudication of a Rule 37 motion. Failure to comply with an order compelling responses to discovery will lead to the imposition of further sanctions.

6. Plaintiff(s) shall provide the names and Rule 26 information of any expert witness(es) expected to be used at the trial of this case by _____ . Said witness shall be made available for deposition by Defendant(s) by _____ .

7. Defendant(s) shall provide the names and Rule 26 information of any expert witness(es) expected to be used at the trial of this case by _____ . Said witness shall be made available for deposition by Plaintiff(s) by _____ .

8. If expert disclosures are mandated pursuant to paragraphs 6 and 7 above, they are to be with the specificity needed to make such disclosures truly meaningful. In accordance with Ala.R.Civ.P. 26, each such disclosure must (1) state the subject matter on which the expert is expected to testify; (2) provide all opinions and conclusions that the expert will offer at trial; and (3) describe in detail the factual basis for each such opinion and conclusion. Any disclosure failing to meet this standard may be stricken, thereby precluding the use of such expert.

9. Any amendments to add parties to the pleadings must be filed no later than _____ . Other amendments to pleadings require leave of Court.

10. The provisions of Exhibit B attached hereto apply to motions filed in this action. Motions for Summary Judgment or other dispositive motions must be filed on or before _____ .

11. A Status/Settlement/Pre-Trial Conference is set for:

Status Conference: _____

Settlement Conference: _____

Pre-Trial Conference: _____

or may be set at the request of either party. All lawyers, parties, or other persons with binding settlement authority shall be present at any Settlement Conference, and the

parties shall provide the Court with a statement of impediments to settlement at the outset of the conference.

12. The *Birmingham Differential Case Management Plan* is incorporated into this Scheduling Order by reference. A copy of the *Birmingham Differential Case Management Plan* can be found at <http://10jc.alacourt.gov>.

13. Special provisions applying to this case:

DONE and ORDERED, this the _____ day of _____, 20____.

/s/ [insert name]
Circuit Judge

EXHIBIT A

The following provisions shall apply to the trial of this action:

1. The parties are to exchange the following items so that each party has received the other's items no later than **14 calendar days** before the trial of this case:

(A) Itemizations of all damages claimed, showing the amount and, if applicable, the methodology used to compute all such damages.

(B) Witness lists stating the names and addresses of specific individuals who are expected to testify at trial. While identification of an individual does not obligate the party to call that individual as a witness, any individual not identified will be precluded from testifying at trial without leave of Court, which will be granted only for good cause shown. The obligations of this sub-paragraph do not pertain to rebuttal witnesses the identities of whom cannot reasonably be foreseen ahead of trial.

(C) Exhibit lists identifying *with specificity and particularity* all documents, photographs and other tangible exhibits that the parties intend to use at trial. Exhibits so identified are to be made readily available to any party requesting the opportunity to review and copy. Any exhibit not identified *with specificity and particularity* will not be admitted into evidence without leave of Court, which will be granted only for good cause shown.

2. Unless objections are filed and served no later than **7 calendar days** before trial, each party shall be deemed to have no objection to the competence of every individual identified in witness lists to testify and to the authenticity and admissibility of every item identified in the exhibit lists. Should any objection be filed and served, the party raising it shall state the basis of the objection.

3. In jury cases, no later than **7 calendar days** before trial, the parties shall file and serve any motions *in limine*. Further, by **7 calendar days** before trial, any proposed jury instructions and verdict forms shall be submitted to the Court. If requested instructions comport with the most recent version of the *Alabama Pattern Jury Instruction* charges, the submitting party may simply file a list of the requested APJI charges without setting out the full text of each such charge.

4. The parties are to provide "courtesy copies" of all papers identified in paragraphs 1-3 above by delivering them to the chambers of the undersigned when the originals are filed with the Clerk of the Court. Parties may submit "trial briefs," although such briefs are not required. Any such brief should, in fact, be truly brief.

5. The parties are encouraged to consider using, and preparing, written stipulations of fact, so that a jury may focus on the actual factual dispute remaining for adjudication by trial.

6. All exhibits, properly identified and without objection (or with objections overruled), are to be pre-marked and will be admitted at the beginning of trial.

7. Counsel are reminded that a party desiring a court reporter in attendance at the trial of this cause must specifically request a reporter by advising the Court's chambers no later than **4 days before the trial**. The party making such request must assume, and by this order agrees to assume, the responsibility for payment directly to the court reporter for all costs and expenses attendant to the reporter's services at trial, in the absence of an agreement by the parties to share this financial responsibility jointly.

EXHIBIT B

MOTION PROVISIONS

The following provisions apply to motions filed in this action:

1. If a hearing is requested, the date and time for hearing all motions shall be obtained from the Judge's office **before** filing such motions. Notice of the hearing date and time shall be prominently shown on the first page of the motion, in the style of the case underneath the civil action number.

2. Paper copies of any materials in support of motions, including briefs, in excess of 10 pages must be provided to the Judge's chambers. Courtesy copies shall be delivered no later than **2 business days** before the hearing.

3. No materials electronically filed less than **3 business days** prior to a hearing date will be considered by the Court. No material hand delivered to the Judge's office less than **2 business days** prior to the hearing date will be considered by the Court.

4. Proposed orders shall not be filed with or attached to motions, but shall be submitted to the Court's designated email address in the format preferred by the individual judge. If the lines below are blank or if the email address is no longer active, the pertinent information may be obtained by calling the Judge's office.

Email: [insert email address]

Preferred format: Wordperfect or Microsoft Word

5. The Court encourages the parties to engage in voluntary mediation at any time so long as the mediation does not result in a delay of any dates set in the Scheduling Order. Any motion for mandatory mediation must be filed within **42 days** of this order.

6. No pleading or motion shall be filed by facsimile. No copies shall be sent to the Judge by facsimile unless specifically requested.

EXHIBIT C

THE PARTIES SHOULD REFER TO THE SCHEDULING ORDER FOR THE TRACK ASSIGNMENT AND ALL DISCOVERY DEADLINES.

EXPEDITED TRACK

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery limits apply to these cases:

No depositions will be allowed absent order of the court. Additionally, a limit of 50 single-part paper discovery request items will be allowed for each party whether involving interrogatories, request for production, or request for admission. All discovery must comply with deadlines established by the Court's Scheduling Order.

STANDARD TRACK

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery limits apply to these cases:

Discovery will be limited to six depositions per party. Additionally, each party will be limited to 100 single-part discovery request items whether involving interrogatories, requests for production, or requests for admission. All discovery must comply with the deadlines established by the Court's Scheduling Order. A party may request relief from the discovery limitations in standard track cases.

STANDARD AND COMPLEX TRACK

Pursuant to the *Birmingham Differential Case Management Plan*, the following discovery provisions apply to these cases:

In the event there is a dispute over the order in which depositions are to be taken, a defendant issuing a deposition notice contemporaneously with the defendant's initial appearance shall be entitled to conduct a party plaintiff's deposition first. Otherwise, the party who issued a deposition notice first should be permitted to conduct that deposition prior to any other depositions being taken. The attorneys are encouraged to work among themselves, without the need for court intervention, if changes in deposition scheduling become necessary.

With respect to Rule 30(b)(6) of the Alabama Rules of Civil Procedure, if corporate representatives are not located within the State of Alabama, a party being asked to tender such representatives for deposition will be expected to produce only one such representative in Jefferson County, Alabama absent agreement of the parties to the contrary, or unless otherwise ordered. Any further depositions of additional corporate representatives would be expected to be held at the deponents' location. Should the party for whom the representative will be testifying reasonably question the court's personal jurisdiction, this party may object to producing a witness in Jefferson County until the issue is resolved.