

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

CASE NO. CA
DIVISION: 55

_____ /

ORDER REFERRING CASE TO MEDIATION AND APPOINTING MEDIATOR

Upon the Court's Motion and consideration, the Court finds that this cause appears to be appropriate for Court-ordered mediation pursuant to Section 44.301-306, Florida Statutes. Accordingly, it is,

ORDERED AND ADJUDGED, as follows:

1. This cause is hereby referred to who is a certified mediator in this Circuit, for mediation pursuant to Florida Statutes 44.302 and 1.700, Florida Rules of Civil Procedure, and is hereby appointed mediator in this case.

2. The mediation conference shall be held at (to be announced) and commence at A.M./P.M. on (to be announced), and shall continue until recessed or terminated by the mediator.

3. The mediator is hereby authorized to resolve scheduling conflicts without further order, including rescheduling the mediation conference. The parties shall cooperate with the mediator in any and all such matters.

4. No less than seven (7) days before the mediation conference, each party shall serve the mediator with a written brief summary outlining the party's position and issues, and designating persons who will appear at the conference. Said summary shall also state, without argument, the last stated settlement position of that party. Counsel for corporate parties will attend and represent the corporate party.

5. The mediator shall be compensated at the rate of \$_____ per hour, which costs shall be borne and paid by the parties equally. Final payment for mediation shall be made within thirty (30) days of completion of the mediation conference(s).

6. If the case settles, or if the mediation conference must be rescheduled less than three (3) days before the date the conference is set by this Order, a one hour charge will be made by the mediator to defray administrative expenses.

7. Any party may communicate, through counsel, with the mediator regarding the conference. All correspondence should be directed to: . The telephone number is.

8. The personal attendance of trial counsel and of all the parties is mandatory. Parties shall appear with full and complete authority to resolve the matters in dispute.

a. Corporate party shall send an authorized representative with absolute authority to enter into a full and complete compromise and settlement.

b. If insurance is involved in the action, the insurance carrier shall send a company representative who has full and absolute authority to resolve the matter for an amount which is the lesser of the policy limits or the most recent demand of the adverse party.

9. If a party fails to appear, or appears without settlement authority as required above, the Court has the right to impose appropriate sanctions against that party, including the taxing of costs, mediators fees and attorney fees for opposing counsel. The participants shall be prepared to spend as much time as necessary to settle the case or until an impasse is declared by mediator.

10. "Mediation" is a process in which a neutral and impartial third party, the mediator, acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. It is an informal and nonadversarial process with the objective of helping the disputing parties to communicate constructively and voluntarily reach their own mutually acceptable settlement of the issues in dispute. A mediator does not make rulings, or give legal advice, nor does the mediator impose any settlement on the parties. The mediator has no power to either compel or enforce settlement agreements.

11. All discussion, representations and statements made at the mediation conference shall be privileged as settlement negotiations and shall not be admitted at trial or subject to discovery.

12. The parties are advised that mediation does not automatically toll any time requirements on this law suit. In the event any motions or hearings are currently scheduled in the case before the Court, they shall be heard as scheduled.

13. Any failure to comply with the terms of this order shall be grounds for sanctions. The mediator shall be served with a copy of any papers regarding the mediation appointment or conference.

14. Plaintiff's counsel shall advise the mediator and the Court within three (3) days of any settlement or dismissal of this action.

ORDERED in Chambers at St. Augustine, St. Johns County, Florida this ____ day of _____, 20__

R. LEE SMITH, CIRCUIT JUDGE

Copies to: