IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

,

Plaintiff(s),

v. Case No.: 16-

Division: CV-E

,

Defendant(s).

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**ORDER REFERRING PARTIES TO MEDIATION**

The Court finds that this case should be referred to mediation for mediation of all pending disputed issues.

**ACCORDINGLY**, it is **ORDERED** that:

1. **Referral.** This case is hereby referred to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esquire for mediation of all pending disputed issues **including, but not limited to, for cases in which section 768.0427, Florida Statutes applies, the determination of admissible evidence of medical treatment or service expenses for trial purposes.**  The mediator shall schedule a mediation conference at the earliest time available for the parties, **after the effective date of this Order**, for the purpose of assisting the parties and their counsel, if any, in resolving such issues.
2. **Deadline to Complete Mediation.** The **EFFECTIVE DATE** of this Order of Referral outlined in paragraph 3 below is **NOT A DEADLINE TO HOLD OR COMPLETE THE MEDIATION.** The **DEADLINE** to complete the mediation is by **ANY DATE PRIOR TO THE DATE OF THE PRETRIAL CONFERENCE.**
3. **Effective Date of Mediation Referral Order.** To facilitate a meaningful and informed mediation conference, conducted after fact and expert discovery have been substantially completed, balanced against the average mediator’s extremely busy conference calendar and the requirement that the first mediation conference must be held within 60 days of the order of referral (See Rule 1.700(a)(1), Fla. R. Civ. P.), the **effective date** of this Order shall be **SIXTY (60) DAYS** prior to the Pre-Trial Conference. The parties and their attorneys shall cooperate with the mediator to schedule a mediation conference after the effective date of this Order but prior to the scheduled Pre-Trial Conference with the Court. However, the above referenced effective date of this Order and scheduling directives for the mediation conference is not intended to prevent the parties and their attorneys from cooperating with each other and the mediator to voluntarily schedule the mediation conference **prior to** the effective date of this Order or any other date **PRIOR TO THE DATE OF THE PRETRIAL CONFERENCE.**
4. **Mandatory Attendance.** The parties and attorneys, if any shall attend all conferences scheduled by the mediator and shall mediate in good faith. If a party is represented, counsel for that party shall attend all mediation sessions. Mediation may be conducted in person, through the use of communication technology as that term is defined in Florida Rule of General Practice and Judicial Administration 2.530, or by a combination thereof. In the event all parties do not stipulate or agree that the mediation proceeding be conducted by communication technology as the term is defined in Florida Rule of General Practice and Judicial Administration 2.530 or by a combination of communication technology and in-person participation, the party objecting to using communication technology shall file a motion setting forth why good cause exists to grant the motion seeking an order requiring mediation by conducted in person and schedule a fifteen (15) minute hearing on such motion to be heard prior to the scheduled mediation conference. *A party, attorney, or insurance company representative may be excused from attending the mediation conference by the Court only for good cause shown by written motion.* Parties shall appear with complete authority to resolve matters in dispute as defined in Florida Rule of Civil Procedure 1.720(b).

(a) A corporate party shall send an authorized representative with absolute authority to enter into a full and complete compromise and settlement.

(b) A public entity required to conduct business pursuant to Chapter 286, Florida Statutes shall appear at the Mediation Conference by physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity.

(c) If insurance is involved in the action, the insurance carrier shall send a representative of the insured party, who is not such carrier’s outside counsel, who has full authority to settle, up to the amount of the Plaintiff’s last demand or the policy limits, whichever is less, **without further consultation.**

(d) If a party has knowledge of the existence of a lien, such as worker’s compensation, medical liens, or other subrogated liens, then that party shall give notice of the date, time, and place of the Mediation Conference to the lien holder.

1. **Remote Procedures Applicable to Mediation Conference Proceedings.** The mediator and any parties, attorneys, or authorized representatives participating in the mediation conference through the use of communication technology as that term is defined in Florida Rule of General Practice and Judicial Administration 2.530, shall comply with “The Florida Bar Recommended Best Practices for Remote Court Proceedings” that can be found on Division CV-E’s Court website (<https://www.jud4.org/Ex-Parte-Procedures-and-Dates>).
2. **Mandatory Payment of Mediation Costs.** Unless it is other agreed or ordered, the parties shall equally pay a portion of all mediation costs assessed by the mediator.
3. **Failure to Attend Mediation.** In the event that one party fails to attend a scheduled mediation conference, the party who fails to attend shall be responsible for payment for the entire cost of the session, and the party (or parties) who appeared shall not be responsible for payment of any of the cost of the session. In the event that all parties fail to appear, each party shall be responsible for payment of their portion of the cost of the session. Failure of one party or more parties to appear may result as well in the imposition by the Court of appropriate sanctions which may include, but are not limited to, dismissal of a party’s pending cause of actions(s), striking of pleadings or denial of motions, or an adjudication of indirect civil contempt or indirect criminal contempt.
4. **Taxation of Mediation Costs.** Where appropriate under the law, mediation costs may be taxed at the conclusion of the case.

**DONE AND ORDERED**, in Chambers at Jacksonville, Duval County, Florida this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

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BRUCE R. ANDERSON, JR.

Circuit Judge

Copies furnished to: