

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
_____ DIVISION
CASE NO. _____-CI-_____

Plaintiff

VS.

PRE-TRIAL ORDER

Defendant

This matter having come on for pre-trial conference this ___ day of _____, 20_____, and the Court and all Counsel of Record having discussed the matter and the issue of said case, and the Court being sufficiently advised;

IT IS HEREBY ORDERED as follows:

(1) Any amendments to or additional pleadings shall be filed on or before _____ with leave to file other pleadings only for good cause shown.

(2) On or before the deadlines provided below, the parties shall identify each witness and their current address whom they expect to call at trial and shall state the subject matter on which the witness is expected to testify. If the witness is an expert, Plaintiff shall state the subject matter of the testimony as well as the substance of facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. If the expert generates a CR 26 report, said report SHALL be provided to opposing counsel. A list of ANY literature which the expert witness(es) intends to rely on or refer to while testifying, including, but not limited to, curriculum vitae, MUST be provided to opposing counsel and documents on that list MUST be listed on the party's exhibit list if the party intends to introduce said literature as an exhibit at trial. This includes all exhibits attached to expert trial depositions. **No additional witnesses will be allowed after said date without good cause shown.**

(A) With the exception of the requirements related to the exhibit list, Plaintiff's deadline for the completion of the items in Paragraph (2) is _____.

(B) With the exception of the requirements related to the exhibit list, Defendant's deadline for the completion of the items in Paragraph (2) is _____.

(3) Fact discovery shall be completed on or before _____.

(4) Any dispositive motions shall be filed on or before _____. All responses SHALL be filed no later than fourteen (14) days thereafter. The reply, if any, SHALL be filed no later than seven (7) days after the response. A hearing on the motion will be held on _____ at _____. If the parties agree to submit the matter on the record, an Agreed Order of Submission may be filed no later than twenty-four (24) hours prior to the scheduled hearing date. The parties must contemporaneously **provide the Court and opposing counsel with courtesy copies of all pleadings by email or hand delivery.**

(5) On or before forty-five (45) days prior to trial the parties shall identify each exhibit expected to be introduced at trial and shall make those exhibits available thereafter for inspection by opposing counsel. No additional exhibits shall be allowed without good cause shown.

(6) Prior to the trial, each party SHALL mark with the appropriate color label (red labels for Plaintiffs and blue for Defendants) and number any exhibits that will be introduced into evidence and file an exhibit list with the presiding clerk at the beginning of the trial.

(7) Notice of any depositions to be used at trial SHALL be filed in the record on or before _____. The portion of the deposition to be used at trial SHALL be specifically designated. All objections shall be filed no later than fourteen (14) days thereafter. A hearing on the objection(s) will be held on _____ at _____. **Objection(s) not made at the deposition and not renewed as stated above, shall be deemed waived or withdrawn.**

(8) All video depositions to be used at trial shall be edited for objections and reviewed by opposing counsel no later than fourteen (14) days prior to the trial of this matter. Any objections shall be filed no later than seven (7) days thereafter. A hearing on the objection(s) will be held on _____ at _____. **Objection(s) not made and not renewed as noted above shall be deemed waived or withdrawn.**

(9) On or before thirty (30) days prior to trial, the parties shall submit written stipulations, agreed to by all parties. The parties SHALL stipulate as to the following (if there is disagreement as to stipulations on these subjects, the dispute shall be explained to the Court):

(A) The authenticity of medical records and whether authenticity is disputed;

(B) The authenticity of medical bills and whether authenticity is disputed; and

(C) The reasonableness and necessity of medical bills and procedures and whether an expert witness is needed to testify as to the reasonableness of said bills and/or procedures.

(D) Other:

(E) Other:

(10) Any motions in limine SHALL be filed on or before _____ . All responses shall be filed no later than fourteen (14) days thereafter. The reply, if any, SHALL be filed no later than seven (7) days after the response. Courtesy copies of all motions, responses and replies must be served by email or hand-delivery on the Court and on opposing counsel at the time of filing. A hearing on the motion(s) will be held on _____ at _____. No motions in limine will be heard thereafter without good cause.

(11) Trial memoranda shall be submitted by each party on or before twenty (20) days prior to trial with the Plaintiff(s) to provide its theory of liability and an itemization of its claimed damages and with Defendant(s) to provide its defenses and with all parties to set out any issues of law or evidence anticipated at the trial.

(12) Proposed jury instructions shall be tendered by each party with the Court twenty (20) days prior to trial. No additions or changes will be allowed after said date without good cause shown. An electronic Microsoft Word version of the proposed jury instructions shall be provided by email to the Court at _____[list Judge's email address] on the first day of trial.

(13) Each party is ordered to submit a final demand or offer of settlement to the other party or parties with copies to the Court in Chambers at least ten (10) days prior to trial to enable the Court to determine and award costs to the successful party as determined from the final settlement positions.

(14) In the case of an under-insured motorist claim, written notice of the proposed settlement must be submitted by certified or registered mail to all under- insured motorist insurers that provide coverage. The under-insured motorist insurer then has a period of thirty (30) days to consent to the settlement or retention of

subrogation rights. (KRS 304.39-320) The trial date will not be continued in order to allow compliance with this requirement.

(15) Each party SHALL exchange an itemization of damages and the specific maximum amount that will be requested at trial at least thirty (30) days prior to trial. This document MUST also be filed in the record. See CR 8.01(2). See also *LaFleur v. Shoney's*, 83 S.W.3d 474 (Ky. 2002) and *Fratzke v. Murphy*, 12 S.W.3d 269 (Ky. 1999). Nothing in this section restricts the disclosing party from seeking damages at trial for less than the amounts disclosed.

NOTE: DAMAGES NOT INCLUDED ON "A NOTICE OF ITEMIZED DAMAGES" OR SUPPLEMENTED IN ANSWERS TO INTERROGATORIES PRIOR TO TRIAL SPECIFYING THE AMOUNTS THAT WILL BE REQUESTED AT TRIAL **WILL NOT BE ALLOWED INTO EVIDENCE** AT TRIAL.

(16) It is hereby ordered that the parties are referred to: () (1) a mediator of their choice; OR () (2) a Court- appointed mediator- _____ for the purpose of mediating this matter on or before _____. Unless otherwise ordered by the Court, or explicitly agreed among the parties, the parties and representatives of their insurers, **with full authority to settle**, SHALL attend the mediation conference in compliance with Local Rule 29(C)(2), and the parties shall use their best efforts to resolve all issues. The parties, or the mediator with consent of the parties, shall comply with the requirements of Local Rule 29(E) regarding reporting to the Court.

A "Notice of Itemization of Damages" with specific amounts requested SHALL be provided to opposing counsel prior to mediation to facilitate settlement negotiations.

(17) This matter is assigned for a status conference on the _____ day of _____, 20 at _____ in the Judge's chambers.

(18) This matter is assigned for a final pre-trial conference on the _____ day of _____, 201_____ at _____.

(19) This matter is assigned for trial by jury beginning on the _____ day of _____, 201_____ at _____ and is expected to last _____ days. The attorneys and parties SHALL be present at least thirty (30) minutes prior to the starting time of trial.

(20) Each party is allotted a reasonable amount of time for voir dire, opening statement, closing argument, direct and cross examination of witnesses during the trial relative to the circumstances at the discretion of the Court.

(21) Other:

(22) Other:

A MOTION AND ORDER OR AGREED ORDER ARE REQUIRED TO MODIFY THE TERMS OF THIS ORDER.

SO ORDERED this _____ day of _____, 20_____.

JUDGE, FAYETTE CIRCUIT COURT