

IN THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 2009CA040800 XXXX MB AG

JEFFREY EPSTEIN,

Plaintiff(s),

vs.

SCOTT ROTHSTEIN, etc., et al.,

Defendant(s).

**ORDER SETTING JURY TRIAL AND
DIRECTING PRETRIAL AND MEDIATION PROCEDURES**

I. SCHEDULING

This action is set for jury trial on the eight week calendar beginning **October 25, 2010**. **YOU MUST APPEAR AT 9:00 O'CLOCK [REDACTED] ON FRIDAY, October 15, 2010, IN COURTROOM 9C, PALM BEACH COUNTY COURTHOUSE, 205 NORTH DIXIE HIGHWAY, WEST PALM BEACH, FLORIDA FOR THE CALENDAR CALL.** (10 day(s) reserved for the trial of this cause).

The trial will be scheduled sometime during the calendar, at a date and time to be provided at the calendar call, subject to the court's ordering a later case setting. The docket ends 12/17/10.

II. UNIFORM PRETRIAL PROCEDURE

A. On the last business day no later than **120 DAYS PRIOR TO CALENDAR CALL**, the parties shall exchange lists of all trial exhibits, names and addresses of all trial witnesses, and names and addresses of all expert witnesses.

B. On the last business day no later than **60 DAYS PRIOR TO CALENDAR CALL**, the parties shall exchange lists of names and addresses of all rebuttal witnesses.

C. In addition to names and addresses of each expert retained to formulate an expert opinion with regard to this cause, both on the initial listing and on rebuttal, the parties shall provide:

1. the subject matter about which the expert is expected to testify;
2. the substance of the facts and opinions to which the expert is expected to testify;
3. a summary of the grounds for each opinion;
4. a copy of any written reports issued by the expert regarding this case; and
5. a copy of the expert's curriculum vitae.

D. On the last business day no later than **30 DAYS PRIOR TO CALENDAR CALL**, the parties shall confer and:

1. discuss settlement;
2. simplify the issues and stipulate, in writing, as to as many facts and issues as possible;
3. prepare a Pre-Trial Stipulation in accordance with paragraph E; and
4. list all objections to trial exhibits.

E. **PRETRIAL STIPULATIONS MUST BE FILED.** It shall be the duty of counsel for the Plaintiff to see that the Pre-Trial Stipulation is drawn, executed by counsel for all parties, and filed with the Clerk no later than **20 DAYS PRIOR TO CALENDAR CALL**. **UNILATERAL PRETRIAL STATEMENTS ARE DISALLOWED, UNLESS APPROVED BY THE COURT, AFTER NOTICE AND HEARING SHOWING GOOD CAUSE.** Counsel for all parties are charged with good faith cooperation in this regard. The Pre-Trial Stipulation shall contain in separately numbered paragraphs:

1. a list of all pending motions including **MOTIONS IN LIMINE and FRYE MOTIONS** requiring action by the Court and the dates those motions are set for hearing (**MOTIONS IN LIMINE and FRYE HEARINGS shall not be heard the day of trial or thereafter.**)
2. stipulated facts which require no proof at trial which may be read to the trier of fact;
3. a statement of all issues of fact for determination at trial;
4. each party's numbered list of trial exhibits with specific objections, if any, to schedules attached to the Stipulation;
5. each party's numbered list of trial witnesses with addresses (including all known rebuttal witnesses); the list of witnesses shall be on separate schedules attached to the Stipulation;
6. a statement of estimated trial time;
7. names of attorneys to try case; and
8. number of peremptory challenges per party.

F. **FILING OF PRE-TRIAL STIPULATION.** Failure to file the Pre-Trial Stipulation or a Court Approved Unilateral Stipulation as above provided may result in the case being stricken from the Court's calendar at its sounding or other sanctions.

G. **ADDITIONAL EXHIBITS, WITNESSES OR OBJECTIONS.** At trial, the parties shall be strictly limited to exhibits and witnesses disclosed and objections reserved on the schedules attached to the Pre-Trial Stipulation prepared in accordance with paragraphs D and E, absent agreement specifically stated in the Pre-Trial Stipulation or order of the Court upon good cause shown. Failure to reserve objections constitutes a waiver. A party desiring to use an exhibit or witness discovered after counsel have conferred pursuant to paragraph D shall immediately furnish the Court and other counsel with a description of the exhibit or with the witness' name and address and the expected subject matter of the witness' testimony, together with the reason for the late

discovery of the exhibit or witness. Use of the exhibit or witness may be allowed by the Court for good cause shown or to prevent manifest injustice.

H. DISCOVERY. Unless otherwise agreed in the Pre-Trial Stipulation, all discovery must be completed no later than **10 DAYS BEFORE THE DATE SET FOR CALENDAR CALL**, absent agreement for later discovery specifically stated in the Pre-Trial Stipulation or for other good cause shown.

I. PRE-TRIAL CONFERENCE. No pre-trial conference pursuant to Fla. R. Civ. P. 1.200 is set by the Court on its own motion. If a pre-trial conference is set upon motion of a party, counsel shall meet and prepare a stipulation pursuant to paragraphs D and E and file the stipulation no later than **5 DAYS BEFORE THE CONFERENCE**. Failure to request a pre-trial conference in a timely fashion constitutes a waiver of the notice of requirement of Rule 1.200. Motions for Summary Judgment will not be heard at any pre-trial conference.

J. UNIQUE QUESTIONS OF LAW. Prior to calendar call, counsel for the parties are directed to exchange and simultaneously submit to the Court appropriate memoranda with citations to legal authority in support of any unique legal questions which may reasonably be anticipated to arise during the trial.

K. MODIFICATION TO UNIFORM PRE-TRIAL PROCEDURE. Upon written stipulation of the parties filed with the court, the Pre-Trial Procedure, except for items II D-F, inclusive, may be modified in accordance with the parties' stipulation, except to the extent that the stipulation may interfere with the Court's scheduling of the matter for trial or hinder the orderly progress of the trial.

L. PREMARKING EXHIBITS. Prior to trial, each party shall meet with and assist the clerk in marking for identification all exhibits, as directed by the clerk.

M. DEPOSITION DESIGNATIONS. No later than **20 DAYS PRIOR TO CALENDAR CALL**, each party shall serve his, her, or its designation of depositions, or portions of depositions, each intends to offer as testimony in his, her or its case in chief. No later than **10 DAYS PRIOR TO CALENDAR CALL**, each opposing party shall serve his, her, or its counter (or "fairness") designations to portions of depositions designated, together with objections to the depositions, or portions thereof, originally designated. No later than calendar call, each party shall serve his, her or its objections to counter designations served by an opposing party.

III. MEDIATION

A. All parties are required to participate in mediation.

1. The appearance of counsel who will try the case and representatives of each party with full authority to enter into a complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

2. At least **ONE WEEK BEFORE THE CONFERENCE**, all parties shall file with the mediator a brief, written summary of the case containing a list of issues as to each party. If an attorney or party filing the summary wishes its content to remain confidential, he/she must advise the mediator in writing when the report is filed.

3. All discussions, representations, and statements made at the mediation conference shall be privileged consistent with Florida Statutes sections 44.102 and 90.408.

4. The mediator has no power to compel or enforce a settlement agreement. If a settlement is reached, it shall be the responsibility of the attorneys or parties to reduce the agreement to writing and to comply with Florida Rule of Civil Procedure 1.730(b), unless waived.

B. The Plaintiff's attorney shall be responsible for scheduling mediation. The parties should agree on a mediator. If they are unable to agree, any party may apply to the Court for appointment of a mediator in conformity with Rule 1.720 (f), Fla. R. Civ. P. The lead attorney or party shall file and serve on all parties and the mediator a Notice of Mediation giving the time, place, and date of the mediation and the mediator's name. The mediator shall be paid \$175.00 per hour, unless otherwise agreed by the parties.

C. Completion of mediation prior to calendar call is a prerequisite to trial. If mediation is not conducted, or if a party fails to participate in mediation, the case, at the Court's discretion, may be stricken from the trial calendar, pleadings may be stricken, and other sanctions may be imposed.

D. Any party opposing mediation may proceed under Florida Rule of Civil Procedure 1,700(b).

IV. NONCOMPLIANCE

NONCOMPLIANCE WITH ANY PORTION OF THIS ORDER MAY RESULT IN THE STRIKING OF THE CASE, WITNESSES, OR EXHIBITS, OR IMPOSITION OF SUCH OTHER SANCTIONS AS ARE JUST.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 15 day of April, 2010.

SIGNED AND DATED
APR 15 2010
JUDGE DAVID F. CROW

DAVID F. CROW
Circuit Judge

Copies furnished:

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