

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
GENERAL CIVIL DIVISION

Plaintiff,

CASE NO.:

v.

DIVISION: "E"

Defendants.

ORDER SETTING FINAL EVIDENTIARY HEARING ON ATTORNEYS' FEES AND COSTS; REFERRING PARTIES TO MEDIATION OF AMOUNT OF ATTORNEYS' FEES AND COSTS; AND ESTABLISHING PRE-HEARING REQUIREMENTS

It appearing from the pleadings that there remains for determination in the case the disputed issue(s) of entitlement and/or the amount of the attorneys' fees and costs to which the moving party is entitled, the Court, to insure an orderly and efficient presentation and resolution of disputed requests for attorneys' fees and taxable costs, **ORDERS AS FOLLOWS:**

1. **Hearing Date.** The final evidentiary hearing on the Plaintiff's/Defendant's motion for award of attorneys' fees and taxation of costs ("Fee Hearing") will be set before the Honorable Mark R. Wolfe, Circuit Judge, at the George Edgecomb Courthouse, 800 E. Twiggs St., Hearing Room #511, Tampa, FL 33602. The date is to be determined.

2. **Mediation.** The parties likewise are referred to mandatory mediation for resolution of all issues related to attorneys' fees and costs claimed in this action.

3. **Deadline for Mediation Conference.** The mediation conference ("Mediation Conference") shall be conducted pursuant to Chapter 44, Florida Statutes, and Rule 1.710 and Rule 1.720, Fla. R. Civ. P., and concluded no later than 90 days after the date of this Order. All parties, or their designated representative possessing settlement authority (excluding attorneys), are required to attend the Mediation Conference, which shall be conducted by a mediator

certified by the State and appointed by the Court's Mediation and Diversion Services or a mediator mutually agreeable to the parties.

4. **Moving Party's Production of Attorneys' Fees & Costs Affidavit.** No later than 30 days after the date of this Order, counsel for the moving party shall serve on the non-moving party and file with the Court an affidavit of attorneys' fees and costs ("Affidavit") setting forth the following information:

a) Unless the parties have a written stipulation as to the reasonableness of the hourly rate (s) and the time and labor expended, the following information shall be included in the affidavit of attorneys' fees and costs: The time and labor expended in the case and an itemization of each request for attorneys' fees and each item of cost for which the moving party is seeking reimbursement including, without limitation, an itemization setting forth the date each task was performed or cost was incurred; a reasonably detailed description of the task performed or cost expended; the amount of time or billable hour(s) expended in performing the task; and the name of the attorney or paralegal performing each itemized task for which a fee was incurred.

Example:

<u>Date</u>	<u>Description of Task</u>	<u>Time Expended</u>	<u>Timekeeper</u>	<u>Rate</u>
___/___/___	prepare letter to client	.2 (or 10 mins)	ZZZ	\$_____

b) A description of the factors contained in Rule 4-1.5 (b) of the Rules Regulating the Florida Bar including the following:

c) Novelty, complexity, and difficulty of question(s) involved in the case.

d) Skill requisite to perform the legal services properly.

e) Preclusion of other employment by the attorney due to the acceptance of this case.

f) Fee or rate of fee customarily charged in the locality for similar legal services.

g) The significance of, or amount involved, in the subject matter of the representation and the results obtained in the case.

- h) Time limitations imposed by the client or the circumstances.
- i) The nature and length of the professional relationship with the client.
- j) The experience, reputation, diligence, and ability of the attorney or attorneys performing the services, and the skill, expertise, or efficiency of effort reflected in the actual performing of legal services.
- k) The fee arrangement of agreement with the Client.
- l) Whether the fee is fixed or contingent, and if fixed as to amount or rate, then whether the client's ability to pay rested to any significant degree on the outcome of the representation.
- m) Awards in similar cases.

5. **Non-Moving Party's Response to Fees and Costs Itemization.** No later than 20 days after service of the Affidavit, counsel for the non-moving party shall serve on the moving party and file with the Court a written response ("Non-Moving Party's Response") to (a) each request for attorneys fees/time entry and cost item set forth in paragraph 5a., stating with particularity whether counsel agrees to such request/time entry and cost item or objects to it, and (b) To the information provided in paragraphs 5b) through 5m). For each objection raised, counsel shall state the basis and, if applicable, cite supporting authority. In addition, as to any objection that a time entry is excessive or unreasonable, counsel shall state the amount of time it contends is reasonable and why.

6. **Moving Party's Response to Non-Moving Party's Response.** No later than 20 days after service of the Non-Moving Party's Response, the moving party shall serve on the non-moving party and file with the Court a written reply ("Moving Party's Reply") responding to each objection, stating whether the moving party concurs with each particular objection or, if not, citing contrary authority, if applicable.

7. **Non-Moving Party's Dispute as to Amount of Particular Fee or Cost.** If the non-moving party agrees a particular fee request/time entry or cost item is awardable, but disagrees with the dollar amount, the non-moving party shall state in the Non-Moving Party's Response the amount the party believes to be reasonable.

8. **Additional Document Production Requirements.** Upon informal written request, the moving party shall, within seven days of receipt of such request, make available to the non-moving party all invoices, attorney and paralegal time records, cancelled checks, and other supporting documentation evidencing services rendered.

9. **Discovery.** In preparation for the Mediation and Fee Hearing, the parties may conduct limited discovery on an expedited bases. Responses and objections to any discovery request(s) served on a party (including discovery as to experts) shall be served no later than 15 business days after receipt of such request(s). Depositions may be scheduled on no less than ten business days' notice to the opposing party. If (a) either party fails to timely respond to a discovery request, (b) either party or any of such party's witnesses expected to testify at trial fails to appear for deposition, or (c) a discovery issue arises during any deposition, the Court will consider any appropriately filed motion to compel or motion for protective order on an expedited bases. Any discovery motion filed with the Court must contain a certification that the moving party attempted to reach an amicable resolution of the dispute prior to filing the motion and must set forth in detail such efforts.

10. **Deadline to Designate Expert Witnesses.** No later than 45 days after the date of this Order (and in any event, no later than five business days prior to the Mediation Conference), the parties shall designate any and all expert witnesses expected to testify at the Fee Hearing. All parties are under a continuing duty to supplement their respective answers to any interrogatories propounded to and served upon them pursuant to Rule 1.280(b)(4), Florida Rules of Civil Procedure, for the exclusive purpose of providing complete and current answers to all interrogatories requesting all expert witness information. Any expert witness not disclosed as provided by this Order will not be allowed to testify nor will the deposition of any expert witness not disclosed by admissible as evidence at the Fee Hearing, absent further order of this Court.

11. **Discovery Deadline.** All discovery in connection with the Fee Hearing shall be completed no later than 15 days before the Fee Hearing. The conduct of discovery subsequent

thereto will be permitted only on the order of the Court for good cause shown and which will not delay the Fee Hearing.

12. **Meeting of Parties/Counsel and Pre-Hearing Stipulations.** No later than five business days immediately preceding the Fee Hearing, the attorneys for the parties shall meet together and review the disputed request for fees/time entries and items of costs to determine the amount of fees and costs in dispute, reduce any stipulations/agreements in addition to those reached pursuant to paragraphs 6 through 8 above to writing, and agree to an order incorporating such stipulations/agreements.

13. **SUGTC to Govern.** The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions (SUGTC) shall be utilized by counsel in attempting to resolve disputes over the taxation of costs.

14. **Sanction.** Counsel and the parties are directed to exercise good faith in complying with the terms of this Order. Good faith does not encompass general or blanket denials or objections. The Court may consider appropriate sanctions with regard to unreasonable requests for attorneys' fees and taxation of costs, objections thereto, or failure to comply with this Order. Failure of any party to comply with the terms of this Order may result in involuntary dismissal, default judgment, or other appropriate sanctions including a monetary assessment as provided by the Florida Rules of Civil Procedure.

DONE AND ORDERED, in Chambers in Tampa, Hillsborough County, Florida, this _____ day of _____, 20__.

Circuit Court Judge

Conformed Copies To: