

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

CIRCUIT CIVIL DIVISION: "AE"  
CASE NO.: 50-2005-CA-001771-XXXX-MB  
ELWOOD GARY BAKER,  
Plaintiff/Petitioner  
vs.  
NITV LLC,  
Defendant/Respondent.

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

**I. SCHEDULING**

This action is set for jury trial for the period of: **March 22, 2021 – April 30, 2021**. E-CALENDAR CALL IS DUE **March 12, 2021** by end of business day. All counsel and pro se parties are directed to fully complete the E-Calendar Call Information Sheet attached to this Order as Exhibit "A". Only one form per case is required. The E-Calendar information sheet must be e-mailed to the Divisional e-mail: [CAD-DivisionAE@pbcgov.org](mailto:CAD-DivisionAE@pbcgov.org) no later than **March 12, 2021**.

\*AMOUNT OF DAYS REQUESTED: 3

\*Note: Any party requesting a continuance of trial is to file a motion and set the matter for hearing on the court's UMC calendar online.

**II. UNIFORM PRETRIAL PROCEDURE**

A. On the last business day, no later than **30 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 **20 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 **15 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 **10 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 DAUBERT MOTIONS requiring action by the Court and the dates those motions are set for hearing (MOTIONS IN LIMINE shall not be heard the day of trial or thereafter). All Daubert Motions must be heard no later than 20 days before the start of the trial.
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. a statement of estimated trial time;
6. names of attorneys to try case;
7. number of peremptory challenges per party; and
8. each party's proposed jury instructions and verdict form, with citations to supporting authority, as schedules attached to the Stipulation.

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. **ABSENT A TRUE EMERGENCY, FAILURE TO COMPLETE DISCOVERY SHALL NOT CONSTITUTE GROUNDS FOR CONTINUANCE.**
- 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. **PRE-MARKING EXHIBITS.** Please see the Divisional Website (Forms & Orders) for the clerk's instructions and exhibit labels.
- 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. **MEDIA/EQUIPMENT NOTICE:**

All equipment used during hearings or trials must be approved by Court Technology to determine if it is compatible with the courtroom equipment. Media Request Forms are located on the 15th Circuit Court webpage and must be completed at least five (5) business days prior to the court date. Under Circuit Web Applications, click "View All Web Applications" and select the Media Request Form. **All equipment used for trial is set up on the first day of trial. Please do not have equipment people contact the office to make arrangements to set up in advance. Note: If Court Technology provides equipment in court, there is a rental fee. The judicial assistant does not handle any courtroom issues or requests regarding equipment used for trials.**

#### V. **SETTLEMENT**

If this case should settled prior to trial, counsel for Plaintiff shall immediately contact the Judge's office by phone and file a notice of settlement with the clerk of court and provide an e-filed/e-stamped courtesy copy to the court via the Divisional e-mail: [CAD-DivisionAE@pbcgov.org](mailto:CAD-DivisionAE@pbcgov.org).

#### VI. **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.

50-2005-CA-001771-XXXX-MB 08/20/2020  
Glenn D. Kelley, Judge

50-2005-CA-001771-XXXX-MB 08/20/2020  
Glenn D. Kelley  
Judge

**COPIES TO:**

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NOT A CERTIFIED COPY

This notice is provided pursuant to Administrative Order No. 2.207

**“If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Tammy Anton, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.”**

**“Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Tammy Anton, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711.”**

**“Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Tammy Anton, kòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711.”**

**DIVISION AE: E-CALENDAR CALL**  
**FOR THE TRIAL PERIOD OF March 22, 2021 – April 30, 2021**

**AFTER COUNSEL FOR ALL PARTIES HAVE CONFERRED, PLAINTIFF'S COUNSEL SHALL COMPLETE THIS FORM WITH ALL INFORMATION REQUESTED (INCLUDING CONFLICTS FOR ALL COUNSEL OF RECORD). ONCE COMPLETED, IT MUST BE E-MAILED TO CAD-DIVISIONAE@PBCGOV.ORG BY March 12, 2021.**

**CASE NAME:** \_\_\_\_\_

**CASE NUMBER:** \_\_\_\_\_

**PLAINTIFF'S TRIAL COUNSEL CONTACT INFORMATION:**

**Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**DEFENDANT'S TRIAL COUNSEL CONTACT INFORMATION:**

**Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**NUMBER OF DAYS/HOURS REQUESTED FOR TRIAL/HEARING:** \_\_\_\_\_

**DATE PRE-TRIAL STIPULATION WAS FILED:** \_\_\_\_\_

**DATE MEDIATION CONFERENCE WAS CONDUCTED:** \_\_\_\_\_

**DATES AND SPECIFIC NATURE OF CONFLICTS DURING TRIAL DOCKET\*:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\*The Court will only recognize the following conflicts: Pre-Paid vacations, Personal Conflicts  
All conflicts must indicate the date and reason for the conflict listed.*

**PREFERRED TRIAL WEEKS\*\*:**

*\*\*The preferred trial weeks are not necessarily the weeks you will be set for trial. The court will try to accommodate those requests but the case may still be set for trial during the other weeks of the docket. The more dates you provide the greater chance of accommodation. The Court will post the trial calendar on the DIVISION AE website.*

**EXHIBIT "A"**