

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

PROBATE/GUARDIANSHIP DIV  
CASE NO. 50\_\_\_\_\_CP\_\_\_\_\_XXXXMB

IN RE: ESTATE OF /GUARDIANSHIP OF

\_\_\_\_\_ /

Petitioner,

vs

Respondent.

\_\_\_\_\_ /

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

THIS CAUSE came before the Court, in Chambers, on a Notice for Trial. The Court sets this case for trial and **orders compliance** with the following pretrial procedures. Based on the foregoing, it is

ORDERED AND ADJUDGED that this action is set for trial on \_\_\_\_\_, **2014**. **YOU MUST APPEAR AT \_\_\_\_ : \_\_\_\_ a.m. IN COURTROOM 4B, PALM BEACH COUNTY COURTHOUSE, 205 NORTH DIXIE HIGHWAY, WEST PALM BEACH, FLORIDA.** ( \_\_\_\_\_ day reserved).

**I. UNIFORM PRETRIAL PROCEDURE**

A. All parties shall **IMMEDIATELY**, 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 **15 DAYS PRIOR TO THE TRIAL**, 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 THE TRIAL**, 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. specifically list in writing all objections to trial exhibits.

E. **PRETRIAL STIPULATIONS MUST BE FILED**. It shall be the duty of Petitioner or counsel for the Petitioner to make sure that the Pre-Trial Stipulation is prepared, executed by the parties or their counsel, and filed with the Clerk no later than **15 DAYS PRIOR TRIAL**. UNILATERAL PRETRIAL STATEMENTS ARE DISALLOWED, UNLESS APPROVED BY THE COURT, AFTER NOTICE AND HEARING SHOWING GOOD CAUSE. The parties and their counsel 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 requiring action by the court and the dates those motions are set for hearing prior to trial. (**No Motions will be heard on the first day of trial or during trial**);
2. stipulated facts which require no proof at trial;
3. a detailed list of all agreements reached by the attorneys and parties shall be in writing, including agreements regarding records custodians and admissibility of evidence;
4. a statement of all issues of fact or law (set forth separately) for determination at trial;
5. each party's numbered list of trial exhibits with specific objections, if any, as schedules attached to the Stipulation. (See paragraph L below regarding the pre-marking of exhibits);
6. each party's numbered list of trial witnesses with addresses (including all known rebuttal witnesses) as separate schedules attached to the Stipulation;
7. a statement of estimated trial time (do not give ranges); and
8. name, address and telephone numbers of attorneys and or party to try the case and the party each represents.

F. **FILING OF PRE-TRIAL STIPULATION**. Failure to file the Pre-Trial Stipulation

or a court approved unilateral stipulation as provided above may result in the case being stricken from the court's calendar 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 A,B and C, absent agreement specifically stated in the Pre-Trial Stipulation or order of the court upon good cause shown. **Failure to preserve objections constitutes a waiver**. A party desiring to use an exhibit or witness discovered after counsel have conferred pursuant to paragraph D shall be immediately furnished to the court and other party or counsel, with a description of the exhibit or witness' name and address and the expected subject matter of the witness' testimony, 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 TRIAL**, absent a court order for later discovery for good cause shown.

I. **PRE-TRIAL CONFERENCE**. If a pre-trial conference is set upon motion of a party, the parties or their 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.

J. **UNIQUE QUESTIONS OF LAW**. Five days prior to trial, the parties or their counsel shall submit appropriate memoranda with citations to legal authority in support of any **unique** legal questions which may reasonably be anticipated to arise during trial. Any case law cited should be highlighted (preferably in yellow) in the body of the case. String citing is discouraged. Memoranda and response Memoranda are **limited to 10 double-spaced pages**. The lettering of the memoranda shall be in black and distinct type, with margins no less than 1 inch. Computer generated memoranda shall be submitted in either Times New Roman 14 point font or Courier New 12-point font. Reply Memoranda are **limited to 5 pages**.

All original memoranda that are utilized or read by the Court will be filed in the Court file. Therefore, a working copy should be provided to the Court.

K. **MODIFICATION TO UNIFORM PRE-TRIAL PROCEDURE**. Upon written order of the court, the Pre-Trial Procedures, may be modified, upon filing a motion and setting it for hearing. Agreements to modify this Order will not be honored.

L. **PREMARKING EXHIBITS**. Parties shall pre-mark all exhibits prior to trial. The attached template shall be affixed (with adhesive tape) to the back of the exhibit upon completion of the information with the corresponding number from the trial exhibit list pre-printed on the

label. (Obviously, until the trial the parties will not know if the exhibit will be received into evidence.) Blank templates with the case name, date of the trial, case number, and other identifying information shall be brought to the trial.

M. **DEPOSITION DESIGNATIONS.** No later than **15 DAYS PRIOR TO TRIAL** each party shall serve his or her designation of depositions, or portions of depositions, each intends to offer as testimony in his or her case in chief. No later than **10 DAYS PRIOR TO TRIAL** each opposing party shall serve his or her 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 or her objections to counter designations served by the opposing party. All objections shall be heard **prior** to the first day of trial.

N. **ELECTRONIC EQUIPMENT TO BE USED DURING TRIAL.** The party desiring to use electronic equipment (i.e. television, DVD players, ELMO, projectors, projector screens, computer screens for the Court and all parties (not for personal use), etc.) shall advise the Court **in advance of the trial** in order to insure space availability and safety while in the courtroom. Counsel or a party shall set a status conference at UMC **in advance of the trial** to advise the Court of electronic needs.

## **II. MEDIATION**

- A. All parties are required to participate in mediation **within 60 days** prior to trial.
1. The appearance of counsel who will try the case for each party represented by counsel and each party is mandatory.
  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 contents 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 chapter 44 and section 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. A signed settlement agreement shall be submitted to the court file no later than 10 days after the mediation. A Final Disposition form shall be completed and submitted to the Clerk at the same time.
  5. If the case is settled at mediation, both parties and/or their attorneys are obligated to call the Judicial Assistant of the settlement. (Nicolette Anderson at 561-355-2097)

B. Petitioner shall be responsible for scheduling mediation. **Mediation shall be held no later than 10 days prior to TRIAL.**

C. If a party needs an interpreter in order to participate in mediation, it is the responsibility of that party to bring to the mediation session a neutral adult who can act as an interpreter.

D. Completion of mediation is a prerequisite to trial. If mediation is not conducted, or if a party fails to participate in mediation, the case may be stricken from the trial calendar, pleadings may be stricken, and other sanctions may be imposed.

### **III. JURY TRIALS**

If a Jury Trial has been requested a Status Check Hearing shall be set thirty (30) days in advance of the trial date to discuss courtroom procedures, equipment and any additional items that may be needed. (Please note the assigned courtroom does not contain a jury box.)

### **IV. PROPOSED FINAL JUDGMENTS**

Proposed Final Judgments shall be submitted on the **first day** of trial with cd/disk or thumb drive (word format only).

### **V. 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 DETERMINED TO BE JUST.**

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this  
\_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DIANA LEWIS  
Circuit Court Judge

Copies furnished to:

**Insert complete names, street/mailling address, telephone number and email address** of all counsel of all persons who are to receive copies and submit self addressed stamped envelopes. (See Administrative Order 2.306)

This notice is provided pursuant to Administrative Order No. 2.207-9/12

**“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 Germaine English, 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 Germaine English, 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 discapacidad 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 Germaine English, 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.”**