

IN THE CIRCUIT COURT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION: "AF"
CASE NO.: 50-2022-CA-007080-XXXX-MB

VITA LOUNGE LLC,
Plaintiff/Petitioner

vs.

COMMUNITY REDEVELOPMENT AGENCY OF WEST PALM BEACH FLORIDA,
Defendant/Respondent.

ORDER IMPLEMENTING DIFFERENTIATED CASE MANAGEMENT PLAN,

DESIGNATING CASE TO THE STREAMLINE TRACK,

ORDER SETTING NON-JURY TRIAL AND PRE-TRIAL CONFERENCE,

AND DIRECTING PRETRIAL AND MEDIATION PROCEDURES

(DCMNT)

THIS CAUSE came before the Court, *sua sponte*, on case management review pursuant to Rule 2.545 (b), Fla. R. Jud. Admin., Rule 1.200, and Administrative Order 3.107. At least one hundred and thirty (130) days has passed and the Parties have failed to submit an Agreed Case Management Plan with an Order Approving Case Management Plan within the time deadlines outlined in the administrative order, and the Court having reviewed the file, hereby designates this case to the Streamline Track to be disposed of within twelve (12) months from the date of filing. Based upon a review of the file, Fla. R. Jud. Admin. 2.250(a)(1)(B) and 2.545(b), the Court finds that this case is at issue and hereby **ORDERS** that:

I. SCHEDULING

This action is set for non-jury trial on the eight-week trial calendar beginning **May 22, 2023** and ending **July 14, 2023**. **YOU MUST APPEAR AT 09:00 am on May 17, 2023 IN COURTROOM 9C, DANIEL T.K. HURLEY COURTHOUSE, 205 NORTH DIXIE HIGHWAY, WEST PALM BEACH, FLORIDA 33401 FOR THE JURY CALENDAR CALL. APPEARANCE AT CALENDAR CALL IS REQUIRED. TELEPHONIC APPEARANCES ARE NOT PERMITTED AT CALENDAR CALL.** Pursuant to the Notice to Set Cause for Trial, the Court has reserved **1 - 2 days** for the trial herein.

The trial will be scheduled sometime during the eight-week trial calendar, at a date and time to be provided at the calendar call, subject to the Court's ordering a later case setting.

II. CASE MANAGEMENT ORDER

Pursuant to Fla. Admin. Order AOSC20-23, Amendment 10 (Fla. March 9, 2021) and Administrative Order 3.108, a Case Management Order ("CMO") may have been previously entered in this case. The CMO sets forth, *inter alia*, deadlines for the following:

- a. Completion of Fact Witness Discovery;
- b. Completion of Expert Discovery; and

- c. Alternative Dispute Resolution (Mediation).

The deadlines set forth in this Order control pretrial procedure in this case and supersede any conflicting deadlines set forth in the CMO.

III. UNIFORM PRETRIAL PROCEDURE

- A. On the last business day no later than **60 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 **50 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** requiring action by the Court and the dates those motions are set for hearing (**MOTIONS IN LIMINE shall be heard prior to the day of 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. 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. Parties shall pre-mark all exhibits in the manner customarily used by the Clerk of Court. Before trial, each party shall contact the

Clerk of Court for pre-marking instructions at (561) 355-2986.

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.

N. **EXPERTS.** The parties will be limited to one expert witness per specialty unless they obtain leave of Court to list and call more than one expert witness per specialty, no later than 60 days prior to calendar call. *Daubert* challenges shall not be heard at trial. Any *Daubert* challenge must be filed by written Motion and scheduled to be heard at least thirty (30) days before calendar call. Any motions seeking a *Daubert* hearing must be accompanied by exhibits calling into question the bases of the proffered opinion(s).

IV. **MEDIATION**

A. All parties are required to participate in mediation **prior** to Calendar Call.

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 (j), 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.

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).

V. REQUEST FOR JURORS

A. Per Administrative Order 2.402-7/13, the maximum number of jurors for a Circuit Civil jury panel, without the Chief Judge and Jury offices' approval is 31. If you are requesting an enlarged jury panel (more than 31 jurors) in regards to this case, you are **REQUIRED** to notify the Judge's office, ***in writing***, **WITHIN 30 DAYS** from the date of this trial Order, of the number of requested jurors and the reason(s) why you need an enlarged jury panel in order for our office to seek approval for same from the Chief Judge and Jury office.

B. Failure to timely notify our office of the need for an enlarged jury panel will result in our office requesting only up to the maximum number of jurors (up to 31 jurors), per Administrative Order 2.402-7/13, for the jury trial herein.

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. IF THIS ORDER IS ISSUED WITH LESS THAN THE MAXIMUM NUMBER OF DAYS REMAINING TO COMPLY WITH ANY OF THE DEADLINES IMPOSED BY THIS ORDER, THE AFFECTED DEADLINES SHALL BE AUTOMATICALLY SHORTENED TO THE NUMBER OF DAYS REMAINING BETWEEN ISSUANCE OF THIS ORDER AND CALENDAR CALL, UNLESS EXTENDED BY THE COURT.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida.
Wednesday, December 07, 2022

50-2022-CA-007080-XXXX-MB 12/07/2022
John S. Kastrenakes Circuit Judge

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John S. Kastrenakes
Circuit Judge

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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 William Hutchings, Jr., 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 William Hutchings, Jr., 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 pwozedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte William Hutchings, Jr., kòòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribunal 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 tribunal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribunal la mwens ke 7 jou; si ou gen pwoblèm pou w tandé oubyen pale, rele 711.”