



# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
614.387.9800 or 1.800.824.8263  
www.cco.state.oh.us

JAMES M. FLEMING

Plaintiff

v.

KENT STATE UNIVERSITY

Defendant

Case No. 2011-09365

Judge Clark B. Weaver Sr.

ENTRY SETTING TRIAL  
SCHEDULE

2011 AUG 17 AM 10:57

FILED  
COURT OF CLAIMS  
OF OHIO

Trial is set for June 4-6, 2012, at 10:00 a.m., at the Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Third Floor, Columbus, Ohio 43215.

Any request for the court to issue subpoenas shall be filed no later than twenty-one days prior to the start of the trial.

A status/settlement conference has been set for September 15, 2011, at 11:00 a.m., at the Court of Claims at which time, the court shall initiate the conference via telephone. A motion for a continuance of trial shall be filed no later than seven days prior to the date of the status/settlement conference. During the conference, trial conflicts will be resolved in accordance with L.C.C.R. 12(D), and counsel should be prepared to discuss any pending motions, the progress of discovery, and the status of any settlement negotiations.

Dispositive motions shall be filed on or before March 5, 2012. A non-oral hearing regarding any such motion shall be scheduled unless otherwise ordered by the court.

Plaintiff shall furnish defendant with the names of expert witnesses and a copy of their reports on or before December 5, 2011.

Defendant shall furnish plaintiff with the names of expert witnesses and a copy of their reports on or before January 4, 2012.

No discovery will be allowed after February 6, 2012, without leave of court. A discovery status conference has been set for February 8, 2012, at 10:00 a.m., at which time counsel should be prepared to discuss any outstanding discovery issues. The court shall initiate the conference via telephone.

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A mediation is scheduled for December 13, 2011, at 1:00 p.m. All parties are required to attend unless otherwise notified by the court. Any party wishing to cancel the mediation shall file a notice with the court no later than 30 days prior to the date of the mediation.

A pretrial conference shall be held pursuant to L.C.C.R. 7 on May 9, 2012, at 11:30 a.m. Counsel located outside Franklin County may participate via telephone. During the conference, counsel must have either the authority to negotiate a settlement or the ability to contact the client for purposes of a settlement. Pretrial statements shall be filed and served pursuant to L.C.C.R. 7(B) no later than seven days prior to the date of the pretrial conference.

The responsible party shall file a motion to convey any plaintiff and/or any witness incarcerated in a penal institution to the situs of the trial on or before May 2, 2012. Any response to the conveyance motion shall be filed on May 9, 2012.

Failure to appear at trial, pretrial, or scheduled status conferences may result in dismissal of the action pursuant to Civ. R. 41(B)(1), or by default judgment pursuant to Civ. R. 55(D). The attached "Additional Trial Requirements and Information" form is hereby incorporated by reference.

This trial scheduling order is entered pursuant to Civ. R. 16, L.C.C.R. 7, 12 and 14(A).

  
CLARK B. WEAVER SR.  
Judge

cc:

Christopher P. Conomy  
Randall W. Knutti  
Assistant Attorneys General  
150 East Gay Street, 18<sup>th</sup> Floor  
Columbus, Ohio 43215-3130

John F. Myers  
697 West Market Street, Suite 102  
Akron, Ohio 44303

ADMIN/jam

Any questions concerning the procedures set forth in this order should be directed to the Assignment Commissioner, Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Third Floor, Columbus, Ohio 43215, 614.387.9820, 1.800.824.8263.

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## **Additional Trial Requirements and Information**

### **Subpoena**

Any request for the issuance of a subpoena, including the issuance of a blank subpoena under Civ. R. 45(A) and any motion for an order designating a person to serve a subpoena under Civ. R. 45(C), must be filed with the clerk's office at least twenty-one days before the date of the trial. Any request for the issuance of a subpoena which is not timely filed need not be processed by the clerk's office. A sample request for the issuance of subpoena(s), request for issuance of subpoena(s) in blank, and subpoena form are enclosed. The subpoena may be filled out and used by the attorney of record. A copy of the subpoena shall be filed with the court prior to the service and again filed with the court after service has been made by the attorney, appointed process server or court reporter.

R.C. 2743.06 provides that the party at whose instance the witness appears is to pay the witness fees and mileage; such expenses are not taxed as costs and are not advanced by the Court.

### **Marking Exhibits**

Before commencement of trial, the trial attorneys shall mark all items to be placed in evidence with the enclosed labels or substantially similar labels. The items shall be marked in the following manner:

- (A) "Joint Exhibit (A, B, C, etc.)" for each item upon which counsel agree to introduce as a Joint Exhibit;
- (B) "Pit. (name) Exhibit (1, 2, 3, etc.)" or "Dft. (name) Exhibit (A, B, C, etc.)" for each item which plaintiff or defendant intends to offer but which cannot be marked as a joint exhibit.

A list of the marked items shall be given to the bailiff or staff attorney before the trial or evidentiary hearing.

### **Videotaped Testimony and Depositions**

The trial attorney who intends to offer videotaped testimony or videotaped depositions shall immediately review Sup.R. 13 of the Rules of Superintendence for Courts of Ohio.

### **Pretrial Statements**

Pretrial statements shall be filed and served within seven days of the scheduled pretrial. The statements shall include, where appropriate, a list of exhibits which are to be introduced into evidence, copies of available opinions of expert witnesses, and the names of the witnesses expected to testify at trial.

### **Trial Briefs**

Provided pretrial statements have been filed, trial briefs need not be submitted at any time either before or during the proceedings unless specifically requested by the assigned judge.

### **Motion to Convey**

A motion to convey an inmate to the situs of the trial is necessary when the plaintiff and/or a witness is incarcerated at a penal institution and is to be transported from that institution to the place of the trial.

### **Notice**

If you move or change your telephone number you must file with the court a written notice indicating a new address or telephone number.