

December 1, 2008

TO: All Attorneys Practicing in Fairfield County Common Pleas Court

The purpose of this letter is to notify attorneys of procedural changes regarding pretrial conferences in cases assigned to Judge Berens.

Beginning Monday, January 5, 2009, all pretrial conferences in both criminal and civil cases **assigned to Judge Berens** will be conducted in open court, on the record. All parties and all counsel must be present for the pretrial conference, unless otherwise ordered by the Court.

Rule 17.1 of the Ohio Rules of *Criminal Procedure* provides, in pertinent part:

“At any time after the filing of an indictment, information or complaint the Court may, upon its own motion or the motion of any party, order one or more conferences to consider such matters as will promote a fair and expeditious trial.”

Rule 16 of the Ohio Rules of *Civil Procedure* provides, in pertinent part:

“In any action, the Court may schedule one or more conferences before trial to accomplish the following objectives.

- 1) The possibility of settlement of the action;
- 2) The simplification of the issues;
- 3) Itemizations of expenses and special damages;
- 4) The necessity of amendments to the pleadings;
- 5) The exchange of reports of expert witnesses expected to be called by each party;
- 6) The exchange of medical reports and hospital records;
- 7) The number of expert witnesses;

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- 8) The timing, methods of search and production, and the limitations, if any, to be applied to the discovery of documents and electronically stored information;

- 9) The adoption of any agreements by the parties for asserting claims of privilege or for protecting designated materials after production;
- 10) The imposition of sanctions as authorized by Civ. R. 37;
- 11) The possibility of obtaining:
 - (a) Admissions of fact;
 - (b) Agreements on admissibility of documents and other evidence to avoid unnecessary testimony or other proof during trial.
- 12) Other matters which may aid in the disposition of the action.

The Court shall enter the Order and submit copies to the parties. Unless modified, the Order shall control the subsequent course of action. Upon reasonable notice to the parties, the Court may require that parties, or their representatives or insurers, attend a conference or participate in other pretrial proceedings.”

Pursuant to these Rules, the Court will file a memorandum entitled Pretrial Entry, containing those matters agreed upon by the parties and/or ordered by the Court during the pretrial conference. In civil cases, the Pretrial Entry will address only those matters not addressed in the parties’ joint pretrial statement, (which by Court rule is to be filed with the Clerk and served upon opposing counsel before the pretrial).

Immediately after the pretrial conference, upon the request of all parties, made on the record, the Court may conduct an additional conference, in chambers, with counsel. Any modifications to the pretrial orders resulting from this conference will be reflected in the Court’s pretrial entry.

Samples of the Criminal Pretrial Entry and the Civil Pretrial Entry are attached.

Judge Richard E. Berens