

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. [INSERT]:17-CV-[INSERT]-ROSENBERG/[INSERT]**

[INSERT],

Plaintiff,

v.

[INSERT],

Defendant.

**ORDER REQUIRING CERTIFICATE OF
COUNSEL REGARDING ANY PRIOR FILINGS UNDER THE
AMERICANS WITH DISABILITIES ACT AND ORDER REQUIRING MEDIATION**

Plaintiff has filed a Complaint alleging violations of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181 *et seq.* The Court deems it advisable to require of Plaintiff’s counsel a verified statement reflecting the following:

1. Whether or not counsel has conducted a search of case filings in the records of the Clerk of the United States District Court for the Southern District of Florida to ascertain whether or not Defendant or the property at issue has ever been sued prior to the filing of this suit, for alleged violations for the same, similar, or any, alleged violations of ADA. (If such a search was not made prior to filing suit, counsel should conduct such an examination of the records in order to be able to answer this question.)
2. If there has been a prior suit of the nature referred to in Paragraph 1 above, counsel should state the present status of that litigation (if pending) and, if not pending, the details of the disposition (*i.e.*, settlement, dismissal, other).

3. If there was such litigation and it was disposed of by settlement, counsel is required to furnish, in response to this Order, specific details of the settlement, including any agreement for attorney's fees, costs and expenses, either known to him or ascertainable by him with reasonable inquiry. Copies of these documents should be furnished in the response that counsel will file to this inquiry.

4. If there has been a prior filing, counsel shall state whether or not Defendant (and/or property owned by Defendant and the subject-matter of this suit) has complied with any settlement in the prior litigation (or not) and if not, what remains to be done under the prior litigation.

5. Counsel shall also state what efforts were made by the Plaintiff and Defendant to enforce the terms of any settlement in any prior litigation. Namely, did the property owner make the necessary repairs to the property to bring it in compliance with the ADA, and if not, what efforts the plaintiff in the prior litigation made to seek enforcement of the settlement of that litigation (be it order of contempt or otherwise)?

Accordingly, it is **ORDERED AND ADJUDGED** that Plaintiff's counsel shall file with the Clerk of the Court the verified statement responding to the questions promulgated above **within two (2) weeks** of the rendition of this Order. It is further

ORDERED AND ADJUDGED that Pursuant to Local Rule 16.2, this case is referred to mediation as follows:

- a. Mediation shall be completed **within sixty (60) days** of the rendition of this Order;
- b. The parties shall, **within fourteen (14) days** of the rendition of this Order,¹ agree upon a mediator and file a Notice with the Court

¹ If no Defendant has appeared within fourteen (14) days of the rendition of this Order, Plaintiff shall, as an alternative, file the required notice within seven (7) days of an appearance by any Defendant.

naming the chosen mediator and stating the date, time, and location for which mediation has been scheduled. If the parties are unable to agree upon mediator, they shall ask the Clerk of Court to designate a mediator from the list of certified mediators on a blind random basis;

- c. Counsel for Plaintiff shall be responsible for coordinating a mediation date, time, and location agreeable to the mediator and all counsel of record; and
- d. **Within one (1) day** of the mediation conference, the mediator shall file a Mediation Report indicating who attended the mediation and the result thereof.

The mediation deadline imposed by this Order may not be extended without prior approval of the Court and **this requirement is in addition to, and not in lieu of, the mediation required prior to trial pursuant to the Court's Order Setting Status Conference, Calendar Call, Pretrial Deadlines, and Trial Date and Order of Reference to Magistrate.** Nothing in this Order shall preclude the parties, however, from seeking to be exempted from additional mediation, should the parties conclude that additional mediation would not help to resolve this case.

DONE AND ORDERED in Chambers this [DATE] day of [MONTH], [YEAR] at Fort Pierce, Florida.

Copies furnished to:
Counsel of Record

ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE