

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BOBO'S DRUGS, INC.,

Plaintiff,

v.

Case No. 8:17-cv-372-T-33AEP

ST. JOHN'S UNIVERSITY, et al.,

Defendants.

_____ /

ORDER

This matter comes before the Court sua sponte. Just under four months ago, on March 1, 2017, the Court entered its Scheduling Order (Doc. # 9), which is specifically designed for this type of action. Among other things, the Scheduling Order referred the action to mediation before Peter J. Grilli.

(Id. at ¶ 4). The Scheduling Order further ordered:

12. Results of Mediation: **Lead Counsel must file a notice** informing the Court of the results of mediation within twenty-four hours from the conclusion of the mediation conference. In the event mediation does not result in settlement of th[e] action, the parties must conduct a case management meeting immediately after the mediation conference, during which the parties shall jointly prepare the attached fast-track case management report. **The parties shall file the completed fast-track case management report within twenty-four hours of the conclusion of the mediation conference.** In the event mediation does not result in settlement of this action, the parties shall file a separate notice informing the Court of the

legal issues they believe will need to be resolved at the summary judgment stage **and/or the factual matters** they believe will be at issue during trial.

13. After review of the parties' fast-track case management report, the Court will determine if a Case Management Hearing is required. If a Case Management Hearing is required, the Court will conduct such hearing approximately one week after the parties' mediation conference. The Court will enter a notice indicating the date and time of the hearing. Counsel are advised that this case will be set for trial approximately 90-120 days after the mediation conference. At the Case Management Hearing, this Court will address any scheduling conflicts the parties may have.

(Id. at ¶¶ 12, 13) (emphasis added).

On March 15, 2017, Plaintiff's counsel filed the notice of mediation "[p]ursuant to the Court's Fast-Track Scheduling Order." (Doc. # 13). Mediation was scheduled for June 21, 2017. (Doc. # 14). The mediator timely filed his mediation report on June 21, 2017, indicating the parties had reached an impasse. (Doc. # 40).

In light of the notice of impasse, the Court entered an Order on June 22, 2017, reminding the parties of their obligations under the Scheduling Order. In particular, the Court stated:

The parties mediated on June 21, 2017. (Doc. # 40). Mediation did not result in a settlement. (Id.). Under the Court's Scheduling Order, the parties need to file their jointly completed fast-track case management report today. (Doc. # 9 at 9-10). The parties are also reminded of their obligation

to file a "notice informing the Court of the legal issues they believe will need to be resolved at the summary judgment stage and/or the factual matters they believe will be at issue during trial." (Id. at 10). Finally, as noted in the Court's June 12, 2017, Order, the Court reserves the right to require a second round of mediation.

(Doc. # 41). Despite more than three months of notice and a same-day reminder, Plaintiff failed to comply with paragraph 12 of the Scheduling Order. Thus, the Court ordered Plaintiff to show cause. (Doc. # 42).

It was only after the Court ordered Plaintiff to show cause that the parties submitted the fast-track case management report. (Doc. # 43-1). As of this Order, the parties still have not complied with paragraph 12 of the Scheduling Order, however, because they have not submitted the legal and/or factual issues that remain.

After reviewing Plaintiff's response to the order to show cause and the submitted fast-track case management report, the Court determines a Case Management Hearing is needed for this case. As noted by paragraph 13 of the Scheduling Order,

[i]f a Case Management Hearing is required, the Court will conduct such hearing approximately one week after the parties' mediation conference. The Court will enter a notice indicating the date and time of the hearing. Counsel are advised that this case will be set for trial approximately 90-120 days after the mediation conference.

(Doc. # 9 at ¶ 13). "Absent compelling circumstances and leave of Court, lead counsel must appear in person at the Case Management Hearing." (Id. at ¶ 14).

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

The Clerk is directed to set this case for a Case Management Hearing on Friday, July 7, 2017, at 9:00AM. As noted in the Scheduling Order and herein, absent compelling circumstances and leave of Court, lead counsel must appear in person at the Case Management Hearing.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 27th day of June, 2017.

