

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**DEREK STREETER,  
JOSEPH GLOVER,  
JOSE COBB, and  
PAUL JOHNSON,**

**Plaintiffs,**

**v.**

**Case No. 3:05cv286/MCR**

**CITY OF PENSACOLA and  
PENSACOLA PROFESSIONAL  
FIREFIGHTERS LOCAL CHAPTER 707,**

**Defendants.**

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**ORDER**

This cause is before the court on the parties' joint "Notice of Compliance with Court Order," filed September 22, 2008.

In their response the parties attempt to explain to the court why they did not fully complete mediation as ordered. The court is unpersuaded by the parties' explanation. The court appreciates the problems presented by the inclement weather this region has experienced recently. Nevertheless, the court is extremely dismayed by counsel's inexcusable, and inexplicable, failure to keep the court apprised of the status of the mediation.

This day the court has been in contact with mediator John Albritton, who advises that in order to comply with his prior notice to the court regarding the progress of the mediation, he directed the parties to inform him no later than September 19, 2008, of the date on which they would like to resume the process. Mr. Albritton reports that he never

heard from the parties.

In their notice the parties represent to the court that they will “mediate this matter in whatever time-frame” the court sets. Because Mr. Albritton advises that in the immediate future he only has Wednesday, September 24, 2008 – tomorrow – available to mediate this case, the court will require the parties to submit to mediation on that date. Short of illness requiring hospitalization or some equivalent reason, no excuse for counsel’s failure to appear will be entertained. Any persons appearing as the parties’ representatives **must** have full authority to settle this matter. The court authorizes the parties to appear at the mediation by telephone.

The parties must contact Mr. Albritton’s office immediately to confirm the hours of his availability to mediate this matter on September 24th. If for any reason Mr. Albritton is unable to conduct the mediation as contemplated by this order, the parties are ordered to proceed immediately with private settlement discussions. These discussions must take place no later than Thursday, September 25, 2008 – with all parties and persons with full settlement authority present or appearing by telephone. **The court must be advised of the results of the mediation or the settlement discussions no later than Friday, September 26, 2008, at 12:00 p.m.**

The failure to mediate or conduct private settlement discussions in good faith or the failure to otherwise comply with this order will result in the imposition of sanctions, which may include dismissal of the complaint, the striking of defenses, and/or denial of the pending motion for summary judgment.

**DONE and ORDERED** this 23rd day of September, 2008.

*s/ M. Casey Rodgers*  
**M. CASEY RODGERS**  
**UNITED STATES DISTRICT JUDGE**