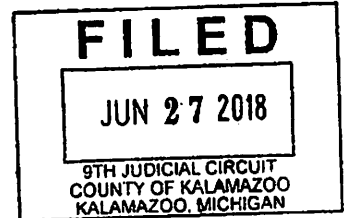


<b>STATE OF MICHIGAN 9<sup>TH</sup> CIRCUIT COURT KALAMAZOO COUNTY</b>	<b>CIVIL PROCEEDINGS SCHEDULING ORDER MCR 2.401</b>	<b>CASE NO. 2018-0153-CZ</b> <b>JUDGE: Honorable Alexander C. Lipsey</b>
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Court Address  
**TRIAL DIVISION - CIVIL - 150 E. CROSSTOWN PARKWAY, KALAMAZOO, MI 49001**  
**TO:**

Court Telephone No.  
**(269) 383-8837**

File Copy



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<b>Plaintiff(s)</b> <b>Scottsdale Capital Advisors Corp.</b>
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v

<b>Defendant(s)</b> <b>MorningLightMountain, LLC; Michael Goode; Does 1-10</b>
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**THIS ORDER CONTROLS THE PRETRIAL AND TRIAL PROCEEDINGS IN THIS CASE. FOR CASES NOT SCHEDULED FOR CASE EVALUATION, THIS ORDER IS THE ONLY NOTICE YOU WILL RECEIVE FOR SETTLEMENT CONFERENCE AND TRIAL DATES.**

**IT IS HEREBY ORDERED:**

**1. DATES.**

**a. Early Scheduling Conference Date** for mediation (case types CB, CR, CP, PR and other Business Court cases):  
\_\_\_\_\_ at \_\_\_\_\_. See item 9 of this order.

**b. Case Evaluation Date** for ND, NF, NH, NI, NM, NO, NS, NZ, AND NP, (except asbestos cases) case types: \_\_\_\_\_

a.m. session     p.m. session

Please refer to MCR 2.403 for time standards, fees, and submission of documents.

Case Evaluation Fees: Plaintiff \$75.00    Defendant \$75.00

Payment is not due at this time. A notice will be mailed at least 28 days prior to the case evaluation date designating the evaluation panel, a specific time for the evaluation, payment of fees, and submission of documents.

The court will schedule and notice a settlement conference to be held within 30-60 days after case evaluation rejection. MCR 2.401. Parties and the attorney who will conduct the trial must be present for the settlement conference. If a party is insured, a representative of the insurance company, with ultimate settlement authority, must be present. Any settlement that limits the potential liability of any defendant at trial (such as a "high-low" or *Mary Carter* agreement) must be disclosed to the court.

The court will schedule and notice a trial to be held within 60-90 days after case evaluation rejection. MCR 2.501.  Non-Jury Trial     Jury Trial / Jury Fee Paid:  Yes     No

**c. Settlement Conference Date:** Wednesday, 12/26/2018, 10:00 AM, in Courtroom I with the Honorable Alexander C. Lipsey at 150 E. Crosstown Parkway, Kalamazoo, MI 49001 MCR 2.401

Parties and the attorney who will conduct the trial must be present for the settlement conference. If a party is insured, a representative of the insurance company, with ultimate settlement authority, must be present. Any settlement that limits the potential liability of any defendant at trial (such as a "high-low" or *Mary Carter* agreement) must be disclosed to the court.

**d. Trial Date:** Tuesday, 01/15/2019, 10:00 AM, in Courtroom I with the Honorable Alexander C. Lipsey at  
150 E. Crosstown Parkway, Kalamazoo,  
Michigan 49001 MCR 2.501  
 Non-Jury Trial     Jury Trial / Jury Fee Paid:  Yes     No

2. **PLEADINGS.** The pleadings in this case are satisfactory. The pleadings may not be amended, nor may parties be added, except as provided by court rule or a stipulated order signed by the court. MCR 2.118. If a party is added after the date of this order, the party who caused them to be added shall serve them with a copy of this order with the initial pleadings served on the new party.

All parties and claims have been joined. MCR 2.203-207

3. **WITNESSES.** The plaintiff(s) will submit a witness list to all other parties, including expert witnesses, not later than 60 days from the date of this order. The defendant(s) will submit a witness list to all other parties, including expert witnesses, not later than 90 days from the date of this order. A party may identify their witnesses in response to a discovery request, if the disclosure is timely under this section of the order. The parties' list of witnesses shall include the witnesses they may call at trial. The list shall include the name, address or business address, and telephone number of the witnesses. Any witness not named on the list will not be allowed to testify at trial except in the discretion of the court for good cause shown. MCR 2.401(I). By an agreement, in writing, the parties may shorten or extend the witness disclosure deadlines, so long as that does not affect the motion deadlines or the dates scheduled for case evaluation, settlement conference, or trial.

4. **DISCOVERY.**

Deadline: Discovery (which includes timely responses under MCR and the actual taking of depositions) in this case must be completed not later than 56 days before the case evaluation date above for ND, NF, NH, NI, NM, NO, NS, NZ, AND NP, (except asbestos cases) case types; and not later than 120 days from the date of this order for all other case types, unless the parties agree otherwise, in writing. Such agreements will not affect motion deadlines or lead to an adjournment of case evaluation, settlement conference or trial, unless approved by a court order. MCR 2.302(F).

Physical and Mental Examinations: Physical or mental examinations shall be completed 28 days before the discovery deadline, unless the parties agree otherwise, in writing.

5. **MOTIONS**

a. **ND, NF, NH, NI, NM, NO, NS, NZ, AND NP, (except asbestos cases) case types.** All dispositive motions must be scheduled and heard not later than 14 days before case evaluation, unless otherwise ordered by the court. The court reserves the right to limit the number of dispositive motions before case evaluation in accordance with the Michigan Court Rules. Ordinarily, dispositive motions filed under MCR 2.116(C)(10) will not be heard until the conclusion of discovery or upon a demonstration that all relevant discovery has occurred on the issue addressed by the motion. All other motions, including motions in limine, must be scheduled and heard no later than 14 days before trial. Legal authority shall accompany all motions. Briefs shall accompany all motions. If a motion is contested, an answer with brief must be filed. A copy of all motions and responses and accompanying authority shall be simultaneously provided to the judge's law clerk. MCR 2.119.

b. **All other case types.** All dispositive motions must be heard 14 days before settlement conference, unless otherwise ordered by the court. Ordinarily, dispositive motions filed under MCR 2.116(C)(10) will not be heard until the conclusion of discovery or upon a demonstration that all relevant discovery has occurred on the issue addressed by the motion. All other motions, including motions in limine, must be scheduled and heard no later than 14 days before settlement conference. Legal authority shall accompany all motions. Briefs shall accompany all motions. If a motion is contested, an answer with brief must be filed. A copy of all motions and responses and accompanying authority shall be simultaneously provided to the judge's law clerk. MCR 2.119.

6. **TRIAL.**

Exhibits: Each party is to exchange a list and description of exhibits to be introduced at the time of trial not later than 7 days before trial. Plaintiff(s) exhibits shall be marked with numbers and Defendant(s) exhibits shall be marked with letters. Each list of exhibits should describe those that are to be admitted without objection and those to which there will be an objection, noting by whom the objection is made and the nature

of the objection.

Counsel shall agree as to the authenticity and admissibility of exhibits so far as possible. Except for good cause shown, the court will not permit the introduction of any exhibits, including exhibits to be used solely for the purpose of impeachment, unless they have been listed in the exhibit list or unless the necessity for the use of any particular exhibit reasonably could not have been foreseen.

Prior to the date of trial, all exhibits shall be marked by the attorneys and dated with the first date of the trial. Exhibit stickers may be obtained from the court. The attorneys will obtain an "Exhibit Log" from the court, complete it and return it to the law clerk on the first day of trial.

Reference Documents (Bench Book) required not required optional : In addition to the formal list of exhibits, copies are to be made for opposing counsel and a bench book of elements of all claims, reference documents and exhibits prepared and delivered to the court 7 days before trial with adequate index. The parties shall meet and agree as to the exhibits to be contained in the bench book and the indexing of said exhibits.

Trial Briefs: All parties will submit trial briefs containing proposed issues of law. In non-jury trials, briefs must contain proposed findings of fact and proposed conclusions of law. These briefs shall be filed 7 days prior to trial and mutually exchanged.

The trial briefs of the parties shall address any and all legal issues, which will be brought before the court by the pleadings or the evidence. These matters shall be addressed in the briefs on both contested and uncontested issues. MCR 2.401(D)

Jury Instructions and Theory and Claim: Proposed jury instructions shall be delivered to the court's law clerk/bailiff and opposing counsel not later than 7 days prior to trial. Jury instructions are to be typewritten in full, with all blanks completed and all inappropriate options deleted. The instructions shall include preliminary instructions about the elements of all claims as well as legal presumptions and burdens of proof. Counsel shall also submit a proposed theory and claim concisely setting forth in non-argumentative fashion their position on the issues in the case and the verdict they seek. The proposed theory and claim shall not exceed two double-spaced, typewritten pages in length, except as otherwise permitted by the court. The theory and claim is read to the jury along with the final instructions in the case. The court may edit the proposed theory and claim for length or content. The parties may waive the theory and claim.

Voir Dire: At the discretion of the court, voir dire may be conducted by the court. The court in the exercise of its discretion may allow each party up to 30 minutes of voir dire. Parties whose interests are essentially identical will be treated as a single party for purposes of this limitation. MCR 2.511(C)

Opening Statements and Closing Arguments: Unless otherwise ordered by the court, each party's opening statement will be limited to 30 minutes. If parties' interests are essentially identical, they will have a total of 30 minutes for an opening statement. Unless otherwise ordered by the court, closing arguments for each party shall not exceed 45 minutes. Parties whose interests are essentially identical will have a total of 45 minutes. Plaintiff(s) may have an additional 10 minutes for any rebuttal.

7. **ADJOURNMENT.** If a motion for adjournment of the trial date is necessary, the same shall be filed not later than 14 days prior to the scheduled trial date. If the trial is to be adjourned by stipulation, the stipulation shall be filed not later than 14 days prior to the trial date. A case is not adjourned unless and until the court enters an order adjourning the trial. Motions and stipulations for adjournment must conform with MCR 2.503.
8. **RESOLUTION.** IF THE CASE IS SETTLED, THE PLAINTIFF'S ATTORNEY WILL IMMEDIATELY NOTIFY THE CIVIL ASSIGNMENT CLERK OF THE SETTLEMENT AND PREPARE AND PRESENT TO THE COURT A JUDGMENT OR PROPOSED ORDER DISMISSING THE CASE. Only upon timely receipt of a judgment or proposed order of dismissal will the matter be removed from the trial docket.
9.  **EARLY SCHEDULING CONFERENCE** (case types CB, CR, CP, PR and other Business Court cases): This case is scheduled for an early scheduling conference to consider mediation. If the parties agree prior to the status conference date that they will use mediation, the enclosed *Order for Mediation* must be completed and filed with the ADR clerk prior to the status conference date. (If desired, an electronic version of this form may be obtained from the ADR clerk.) The status conference will be canceled if all parties agree to mediation and the *Order for Mediation* is timely filed with the court. If mediation is ordered, a mediator may be selected by

stipulation of the parties or appointment by the court. The attorneys/parties will arrange for payment for mediation services directly with the mediator and will be responsible for the direct payment for such services. Mediation costs will be divided as indicated on the *Order for Mediation*. Upon completion of mediation, a written report will be filed with the ADR clerk using court form 9CC-0222, *Alternative Dispute Resolution Report*, which may be obtained from the ADR clerk.

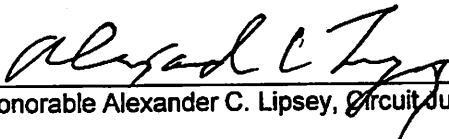
10. **OTHER ALTERNATIVE DISPUTE RESOLUTION.** The parties are encouraged to consider the use of other alternative dispute resolution mechanisms to resolve this matter. There are a variety of conciliation, mediation and arbitration options. The court is willing to explore the available options with parties and counsel. If the parties choose to engage in any ADR process ancillary to the court ordered case evaluation process, advise the ADR Clerk (269-384-8255). Notification to the ADR Clerk assists with caseload management and mandatory statistical reporting. Upon completion of any elective ADR process, please complete form 9CC-0222, *Alternative Dispute Resolution Report*, and return it to: ADR Clerk, 9<sup>th</sup> Circuit Court, 150 E Crosstown Parkway, Kalamazoo, MI 49001.

Contact the ADR Coordinator at 269-384-8255 for an updated copy of the *Alternative Dispute Resolution List of Civil Mediators* (9CC-0225) and form 9CC-0222, *Alternative Dispute Resolution Report*.

The court will not delay the deadlines and dates contained in this Scheduling Order because the parties are engaged in an elective ADR process.

11. **SANCTIONS.** The contents of this order shall control the course of the litigation in this matter. Failure to comply with the requirements of this order may result in sanctions.
12. **OBJECTIONS.** Any objections or corrections to this order shall be filed with the court within 14 days from the date of this order and schedule the objection for hearing. MCR 2.401(B)(2)(d)(i)
13. **STATUS CONFERENCE.** On the request of any party, the court may schedule a status conference to consider modifications to this order. MCR 2.401(A)
14. **OTHER.**

Dated: JUN 27 2018

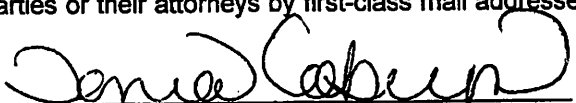
  
Honorable Alexander C. Lipsey, Circuit Judge

Attachment: Form MC 274-M, Order for Mediation

**CERTIFICATE OF MAILING**

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3).

JUN 28 2018  
Date

  
Court Clerk