

IN THE TWELFTH JUDICIAL CIRCUIT COURT
IN AND FOR SARASOTA COUNTY, FLORIDA

Michael T. Flynn
Plaintiff(s),

Case No.: 2023 CA 004264 NC

v.

Division: C Circuit

Jim Stewartson
Defendant(s).

PRETRIAL CONFERENCE ORDER
(for Trial Period: October 2025)

This Pretrial Conference Order:

is agreed to by all parties.

is submitted on behalf of the following party: Enter Party

Estimated trial length, including jury selection: 10 days

Types of case: Defamation (Slander/Libel)

IT IS ORDERED AND ADJUDGED:

1. **Further conduct of the case.** This Pretrial Conference Order together with the operative Case Management Order govern the course of this case. To the extent there is a conflict between those two orders, this Pretrial Conference Order supersedes the Case Management Order only to the extent of the conflict.

2. **Attorneys/parties.** If not already completed, the attorneys trying the case shall file a notice of appearance immediately. The lead attorney for each party is:

Party	Attorney	Bar Number
Michael T. Flynn	Stephen B. French	78761
Jim Stewartson	Craig A. Whisenhunt	81745

3. **Pleadings.** The pleadings—including all complaints, counterclaims, crossclaims, third-party claims, and the answers, affirmative defenses, and replies—which will be tried in this case are:

DIN	Date Filed	Name of Party Filing	Pleading
59	12/26/2023	Michael T. Flynn	Second Amended Complaint
91	02/19/2024	Jim Stewartson	Answer and Affirmative Defenses

4. **Brief statement of the case.** In this section, the parties must provide the Court with a brief statement of the case for the Court’s use during jury selection and trial.

This is a civil defamation action between Plaintiff, Michael T. Flynn, and Defendant, Jim Stewartson. Plaintiff alleges that Defendant has made four defamatory statements: 1) General Flynn is a “Nazi”; 2) General Flynn “wants a second Holocaust”; 3) General Flynn “employed Jack Posobiec to torture prisoners”; and 4) General Flynn “literally tried to murder Mike Pence”. Defendant argues his statements are protected opinion under the First Amendment, true, and/or rhetorical hyperbole. Defendant also argues that he did not act with actual malice and his statements did not harm Plaintiff. No counterclaims or third-party claims are asserted.

5. **Requested jurors.** The parties request:

A standard panel of approximately 30-35 potential jurors.

100 potential jurors. Justification: Given the political nature of the case, there is likely to be substantial political bias among jurors.

6. **Peremptory challenges.** Rule 1.431(d) sets the standard number of peremptory challenges at 3 per party. If the number of parties on the opposing side is unequal, the opposing parties are entitled to the same aggregate number of peremptory challenges to be determined on the basis of 3 peremptory challenges to each party on the side with the greatest number of parties. The parties agree and request:

A standard number of peremptory challenges.

Enter challenge count peremptory challenges per side. (This request does not guarantee the Court will agree.) *Justification:* Enter Justification

7. **Less than 6 jurors.** If a juror becomes incapacitated during the trial, and there is no available alternate, do the parties agree to proceed with five (5) jurors?

Yes.

No.

8. **Time limits.** The parties agree to, and request the Court to allow, the following time limits. The Court agrees to those limits, unless the Court has separately has identified a different time limit in the table below.

Activity	Parties time agreement (minutes per side)	Court ordered limit (minutes per side)
Jury selection	160	75
Opening statements	45	45
Closing arguments	45	60

9. **Stipulations of fact and admissions to avoid unnecessary proof.** The parties agree the following facts, stipulations, or admissions are agreed-to and, if deemed appropriate by the Court, will be told to the jury.

On September 1, 2021, December 9, 2021, March 28, 2023, and April 5, 2023, Defendant separately published each of the alleged defamatory statements on his X (formerly Twitter) account under the username @jimstewartson. Plaintiff initiated this action within the statute of limitations on May 3, 2023. At the time of the initial complaint, Defendant had roughly 65,000 X followers. Today, Defendant has roughly 132,000 X followers.

Plaintiff, Michael T. Flynn, is a resident of Sarasota County, Florida.
Defendant, Jim Stewartson, is a resident of the State of California.

Plaintiff is a public figure.

The Court has jurisdiction and venue is proper in Sarasota County.

10. **Records custodians.** The parties agree and request:

Waive all records custodians.

No waiver of any records custodians.

Waive all records custodians, except for: Enter Exception

11. **Court reporters.** The Court does not provide a court reporter. The parties at their expense may hire a court reporter. The parties agree:

- No court reporter will be hired.
- The parties agree to hire a court reporter and split the court reporter's daily fee. Identity of court reporter: Enter Court Reporter
- Plaintiff will hire a court reporter and will pay the court reporter's daily fee. Identity of court reporter: TBD

12. **Mandatory meet and confer meeting between the attorneys (or parties).** No later than five (5) days before Docket Sounding, the attorneys and self-represented parties must meet, discuss, and agree to:

- Trial exhibits. The parties must identify and provide the other party or parties a copy of every exhibit expected to be used at trial. The parties during this meeting must discuss, and try to resolve, all objections to each exhibit. At Docket Sounding, the parties must provide the Court a single, joint list identifying each potential exhibit, a neutral description of the exhibit, whether the parties agree the exhibit is authentic, and whether the parties agree it is admissible. The Court may exclude any exhibit not identified on this list. Any objection to an exhibit not noted on this list is waived.
- Deposition designations. The parties must discuss the page and line designations of any witness to be called at trial by deposition. This includes designations and counter designations. The parties during this meeting must try to resolve all objections to any designation. At Docket Sounding, the parties must provide the Court a single list of the specific line and page numbers of any person to be called by deposition as well as the specific objections to each objected to question. Objections not noted on this list are waived.

13. **Witnesses appearing via remote means (i.e., Zoom).** No witness for trial may appear by remote means without specific permission by the presiding judge.

14. **Courtroom technology.** The parties are responsible to understand the technology available in the courtroom to be used for trial. Training is available through the Court's IT department with a timely request at least 3 business days before the trial or hearing date. Any special equipment request must be made directly to the Court's IT department through its [online request form](#) at least 3 business days before the date the equipment is needed.

15. **Jury instructions and verdict form.** No later than Docket Sounding, the parties will prepare and deliver to chambers of the presiding judge one set of proposed jury instructions and one proposed verdict form in the format requested by the presiding judge. This one set will include all agreed-to instructions as well as any instruction not agreed to by the parties.

16. **Additional information.** The parties provide the Court the following additional information the parties believe the Court should know:

N/A

17. **Sanctions.** Failure to comply with this Order may subject the offending party or attorney or both to appropriate sanctions, which may include the exclusion of witnesses or evidence, the striking of pleadings, or dismissal of the case.

18. **ADA Notice.** If you are a person with a disability who needs any accommodation to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. At least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven (7) days, please contact the Jury Office in the County of the proceeding. If you are hearing or voice impaired, call 711.

- **DeSoto County:** DeSoto County Jury Office, 115 East Oak Street, Arcadia, Florida 34266. Telephone: (863) 993-4876.
- **Manatee County:** Manatee County Jury Office, P.O. Box 25400, Bradenton, Florida 34206. Telephone: (941) 741-4062.
- **Sarasota County:** Sarasota County Jury Office, P.O. Box 3079, Sarasota, Florida 34230. Telephone: (941) 861-8000.

For all other inquiries please contact the Twelfth Judicial Circuit ADA Coordinator at (941) 749-3600, extension 1791.

19. **Cancellation of Pretrial Conference hearing.** When the Court signs this Order (but not before), the Pretrial Conference hearing in this case is cancelled and the parties are excused from attending. Until the Court signs the Order, the parties must appear at the Pretrial Conference hearing.

20. Additional Court instructions. The Court also directs (*none if blank*):


Enter additional Information

Agreed to by:

Stephen B. French
Attorney for Plaintiff

Craig A. Whisenhunt
Attorney for Defendant

DONE AND ORDERED in Sarasota County, Florida.


8/28/2023 3:23 PM 2023 CA
004264 NC
e-Signed 8/28/2023 3:23 PM 2023 CA 004264 NC
Circuit Court Judge

Certificate of Service

Unless otherwise noted below, the Court's Judicial Assistant served this Order through the ePortal, which will send a link to this Order to each registered recipient with the ePortal in this case. In addition, a copy of this Order was sent via First Class U.S. Mail to:

Enter Service List