

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

CASE NO.: 2010 31696 CICI
DIVISION: 31

PACETTA LLC
Plaintiff(s)

v.

TOWN OF PONCE INLET
Defendant(s)

/

**ORDER DENYING DEFENDANT'S MOTION TO ENFORCE THE MANDATE AND FOR
ENTRY OF FINAL JUDGMENT AS TO COUNTS II AND III AND ORDER SETTING TRIAL**

THIS CAUSE has come before the Court upon Defendant's Motion to Enforce the Mandate and for Entry of Final Judgment as to Counts II and III on December 5th, 2017. At that hearing, scheduling the remainder of the proceeding in conformance with the mandate from the 5th DCA was raised. The parties agreed that the second week of the March 2018 trial term was available for the trial. In that trial, the Court must first determine whether the *Penn Central* claim was sufficiently ripened. If the Court finds for the Plaintiff, that the *Penn Central* claim is ripe, then the Court must determine whether takings liability exists under the three prong test of *Penn Central*. Upon a finding that liability exists the matter of damages will then be turned over to a jury for determination. The remanded matters are expected to take 5 days to try. The Friday of the second trial week in March of 2018 has already been scheduled and is unavailable.

The Court finds that it must first try the matters remanded by the mandate *before* entering judgement on Counts II and III. The trial is special set for March 12-15th (four days).

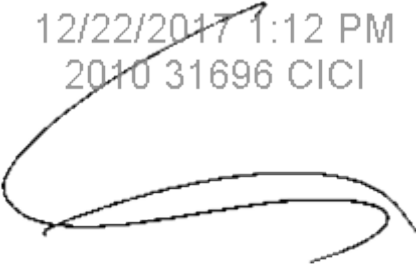
It is **Ordered and Adjudged**:

1. The Motion to Enforce the Mandate and for Entry of Final Judgement as to Count II and III is hereby **DENIED**.

2. The parties shall file any motions for summary judgement *and* schedule them for hearing within or before the month of February 2018.
3. The remanded matters will be tried March 12th-15th, 2018.
4. In order to assure the completion of the trial within that time period the parties shall, as soon as possible, meet and confer and, thereafter, present the Court with a statement of relevant facts, exhibits, and/or transcribed testimony that are agreed to or otherwise are not in dispute. The parties may supply those materials jointly or separately. Materials in the record need not be reproduced, simply referred to by docket number and the Court will review them.

DONE AND ORDERED in chambers, in Volusia County, Florida, on 22 day of December, 2017.

12/22/2017 1:12 PM
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e-Signed 12/22/2017 1:12 PM
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CIRCUIT JUDGE

Copies to: All parties of record CASE NO.: 2010 31696 CICI

PACETTA LLC
TOWN OF PONCE INLET
DOWN THE HATCH INC
SEA LOVE INC
MAR TIM INC
TOWN OF PONCE INLET
BRANCH BANKING & TRUST COMPANY
HEEBNER BAGGETT UPCHURCH & CARTHE PL
BLUE WATER REALTY ADVISORS LLC