

FOR CITY TAP - IA-3

RULES FOR SETTLEMENT CONFERENCES & TRIAL ASSIGNMENT

Due to the backlog of pending cases in the New York City Part, this Court has adopted revised court rules implementing a calendar system which incorporates a “no adjournment” policy for those cases reached for assignment to a trial part.

The City of New York has assured the Court it will be ready to proceed to trial on approximately five to seven cases each week.

In order to attempt to eliminate the delay in the trial of cases assigned to this Part and to dispose of the pending post note of issue cases in a reasonable fashion within the courts available resources , the following rules have been adopted, effective immediately.

(1) **SETTLEMENT CONFERENCE INFORMATION SHEET
AND SETTLEMENT CONFERENCES** (3A and 3 Calendars)

(A) Upon the filing of a Note of Issue an initial pre-trial conference will be scheduled. The Court will notify you of the pre-trial conference date. If the Court has not notified you of the conference date within 90 days after filing the Note of Issue contact the Part 3 Clerk . At the initial pre-trial conference counsel will fill out and file a Settlement Conference Information Sheet for the Court’s use. Each attorney attending the initial settlement conference must bring a copy of all documents relevant to the issues of liability and damages including but not limited to Big Apple Map, Ambulance Call Report, Emergency Room records, medical records, and photographs, be fully familiar with every aspect of the case, and fully authorized to engage in meaningful settlement negotiations.

(B) For all cases other than “trial ready” cases, the Court will endeavor to schedule several interim settlement conferences before it deems it necessary to provide a “final settlement conference” and a trial date shortly thereafter.

(2) FINAL SETTLEMENT CONFERENCE/SPECIAL REQUIREMENTS (3F Calendar)

In a final effort to dispose of the maximum number of cases without the need for a trial, a special “final settlement conference” will be conducted under the following rules:

(A) Only the attorneys of record and/or designated trial counsel may attend these settlement conferences. Attorneys will be bound by all representations made at this conference including those as to trial readiness and the date selected for trial.

(B) Attorneys representing the plaintiff(s) must have evaluated the case prior to the settlement conference date and be prepared to negotiate in good faith to effectuate a reasonable settlement. The City of New York, likewise, shall have evaluated the case prior to the settlement conference date and be prepared to negotiate in good faith to effectuate a reasonable settlement.

(C) Each attorney attending the final settlement conferences must bring a complete file including the marked pleadings, all medical reports and all other documents relating to the issues of liability and damages. Moreover, said counsel must be fully familiar with every aspect of the case and be authorized to settle and/or make binding concessions. In the event the case is not disposed, it shall be scheduled for trial on a date which the Court in its discretion deems appropriate, but in any event, not less than three weeks after said final conference.

(D) The plaintiff must either be present in Court or be available by telephone or cell phone on the final settlement conference date to consent to any settlement order.

(E) Violations of these final conference rules will subject the offending party(s) to the same sanctions, costs and remedies set forth above.

(3) **TRIAL ASSIGNMENT** (3T Calendar)

(A) A minimum of at least seven trial ready cases shall be scheduled for trial on each Monday (or if the Monday is a holiday on the Tuesday following). A call of the “trial ready” calendar shall be made on each Monday promptly at 9:30 A.M., in Room 707, at 851 Grand Concourse, Bronx, New York 10451. Sanctions and/or costs may be imposed on attorneys who are not present upon the call of the trial ready calendar. The Court will endeavor to send all cases to jury selection, beginning with special preference cases, and then by oldest cases as determined by the filing date of the Note of Issue.

(B) Trial counsel for all parties, including the City of New York, must appear and be ready to commence trial and select a jury. On the date scheduled for trial no requests for adjournment by the parties will be granted. Those cases which are not sent out for trial will be deemed ready and passed to the following day or otherwise as directed by the Court.

(C) None of the trial ready cases may be adjourned by stipulation of the parties; and since these trial ready cases are probably the oldest in the City of New York and have already appeared on a final conference calendar, affidavits of engagement and requests for adjournments will not be accepted.

(D) If for any reason the designated trial attorney is not ready to proceed, a new

trial attorney must be retained or designated and be present and ready to proceed immediately upon trial assignment.

(E) Failure of a party to be ready to proceed may result in imposition of costs or sanctions; or the striking of the case from the trial calendar; the vacating of the note of issue; or dismissal of the complaint or the striking of the answer, or other remedies, including, but not limited to, those set forth in CPLR 3404 and Uniform Court Rules 202.21 and 202.27. See, *Hood v City of NY*, 4 Misc 3d 627, 781 NYS2d 431 (Sup. Ct. Bx. Cty.); Chief Administrator’s Rules for the Engagement of Counsel, Rule 125(9).

(4) **SANCTIONS AND COSTS FOR LACK OF READINESS FOR TRIAL**

(A) **Be Prepared:** Do not wait until the eve of the trial to get prepared. It is counsel’s obligation, well before a case is scheduled for trial, to ascertain the availability of all witnesses and the sufficiency of all subpoenaed documents.

Counsel should subpoena all required documents in sufficient time to have same available for trial without delay. Subpoenas for medical records must be accompanied by an appropriate HIPPA form. In order to avoid a delay in processing a request for a “court ordered” subpoena for medical records it is strongly suggested that counsel use the HIPPA OCA Official Form No. 960, which can be obtained from the Court website, or from the clerk in Room 217, or from the IA-3 clerk in Room 707.

(B) **Published Notification:** All “trial ready” cases presently pending in IA-3 (i.e. where a final settlement conference has already been held) will be scheduled for trial assignment on a date fixed by the Court without further personal notice to trial counsel. All attorneys are required to monitor the progress of the trial ready calendar by reference to the New York Law Journal, or on the appropriate court web site or by

appearance at the office of the Clerk in Room 217.

(C) **Sanctions and Costs:** When a date for trial is fixed the attorneys designated as trial counsel must appear for trial on that date. If any such attorney is actually engaged on trial elsewhere, he or she must provide substitute trial counsel. If neither trial counsel nor substitute trial counsel is ready to try the case on the scheduled date, the Court may impose sanctions or costs which can include dismissal of the complaint. [See, *Hood v. City of New York*, 4 Misc. 3rd 627 (Sup. Ct., Bx. Cty.) *Harling v. City of New York*, NYLJ, April 11, 2005 at 19, col 3 (Sup. Ct. Bx. Cty.); Chief Administrator's Uniform Rules for the Engagement of Counsel, Rule 125 (g).

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