

# SUPREME COURT, CIVIL BRANCH NEW YORK COUNTY

## PROTOCOL CONCERNING ASSIGNMENT OF CITY CASES

Cases in which the City of New York or agencies or personnel thereof are parties are assigned as follows.

The filer of a Request for Judicial Intervention (“RJI”) in a case in which the City, a City agency, or a City official is named as a party will identify thereon the kind of case at issue. The naming of the City or a City agency or official as a party and the case-type designation, together with whether the Corporation Counsel’s Office appears for the City or not, will determine the assignment of City cases, which is done at random by computer among Justices assigned to the category of case involved (except in a few categories where the Administrative Judge has directed that the cases be assigned to one Justice). If the representation of the City is unclear at the time the RJI is filed and an incorrect assignment is initially made as a result, the case will be reassigned in accordance with what follows once the facts are clarified.

The Court operates three “City Parts,” which were created many years ago to minimize administrative difficulties. The inventory of these Parts consists primarily of personal injury actions against the City of New York in which the Tort Division of the Corporation Counsel’s Office represents the City.

(1) Tort Actions Generally (Other than Medical Malpractice Actions): Where the RJI identifies a case as a tort action against the City, a non-mayoral agency or a non-City entity indemnified by the City (other than medical malpractice actions) and the Corporation Counsel is designated as appearing for the City, the agency, or the entity, the case will be assigned at random to a Justice in one of the City Parts. In any instance in which a non-medical malpractice tort action against the City does not involve representation by the Corporation Counsel’s Office (usually the Tort Division), the case will be assigned at random to a General Assignment Part. If a tort case in which the Corporation Counsel’s Office (Tort Division) does not appear is inadvertently assigned to a City Part, the case will be reassigned at random to a General Assignment Part. A tort case that properly proceeds in a City Part will be reassigned at random to a General Assignment Part should the City or other entity represented by the Corporation Counsel’s Office (Tort Division) cease to be a party at any time due to decision of the court, settlement, discontinuance, etc. Conversely, if in a non-City tort action not involving medical malpractice the City or other entity is added as a party at any time and is represented by the Corporation Counsel’s Office (Tort Division), the case will be reassigned to a City Part.

(2) Medical Malpractice Cases: If a medical malpractice action is brought against the New York City Health and Hospitals Corporation or one of its hospitals or other facilities or indemnified affiliates, whether the City appears through outside counsel or through the Corporation Counsel’s Office, the case will be assigned to a Justice in a Medical Malpractice Part. Such cases are assigned

to Honorable Martin Schoenfeld in Part 28 or Honorable George J. Silver in Part 10. Justices Schoenfeld and Silver will endeavor to settle those cases. To the extent the cases are not settled, the Justices will handle motions, discovery, and other pre-trial issues. Upon filing of the note of issue, the cases will be reassigned for trial.

(3) Special Proceedings: Special proceedings against the City of New York, its agencies or officials or employees thereof are assigned at random among all the Justices of the court who are listed in the court's computer as eligible to receive special proceedings. Justices eligible to receive special proceedings include many General Assignment Justices and others outside the City Parts, as well as the City Part Justices. However, there are three exceptions to this assignment principle: proceedings seeking leave to file a late notice of claim and pre-action discovery are assigned at random to a Justice of a City Part. These two proceedings are potential precursors of tort actions against the City and any such actions that involve the Tort Division will be assigned to the City Parts. In addition, special proceedings seeking leave to file a late notice of claim in City medical malpractice actions shall be assigned to Parts 28 and 10.

(4) Commercial Cases: Actions brought by or against the City or a City agency in which the filer designates the case on the RJI as a commercial matter and submits a Commercial Division Addendum to the RJI will be assigned in the first instance at random to a Justice of the Commercial Division, provided that the amount in controversy, as determined by the clerk, meets or exceeds the monetary threshold of the Division or an exception thereto applies. If the amount falls below the threshold and no exception applies, the clerk will assign the case at random to a Justice outside the Division. The Division Justice may transfer out of the Division matters found by the Justice not to belong in the Division, subject to review by the Administrative Judge upon application. See Uniform Rule 202.70 (f). Commercial cases that are transferred out of the Commercial Division by a Justice thereof shall be assigned at random to a Justice outside the Division regardless of who appears for the City. If a City case is assigned to a Justice outside the Division in accordance with a non-Commercial Division designation on the RJI and a party believes that the matter belongs in the Commercial Division, an application for a transfer into the Division may be made to the Administrative Judge. See Uniform Rule 202.70 (e).

(5) Transit Cases: Cases against the New York City Transit Authority, including those in which the City is a named party, are assigned to a single Transit Part.

(6) Tax Certiorari and Condemnation Matters: Tax certiorari matters are assigned to Justice Martin Shulman (Part 1). Newly-commenced condemnation matters are assigned to Justice Shlomo S. Hagler (Part 17).

(7) Nuisance Abatement, Forfeiture and Certain Insurance Coverage Cases: Nuisance abatement cases commenced by the City shall be assigned at random to one of a group of Justices designated by the Administrative Judge to handle such matters. The filer of the Request for Judicial Intervention should designate the case under "Other Matters" as "Other: Nuisance Abatement." Forfeiture cases commenced by the New York City Police Department shall be assigned to a single

Part designated by the Administrative Judge. Actions seeking a declaratory judgment regarding insurance coverage with respect to a tort action shall be assigned at random to a General Assignment Part. If, however, the declaratory judgment action concerns an underlying tort case that has already been assigned to a City Part, the action will be assigned to the Justice presiding over the tort case; the filer of the RJI must designate the declaratory judgment action as a “related case” on the RJI. If an underlying tort action against the City is commenced after a declaratory judgment action, the Justice assigned to the latter may transfer the case to the City Part to which the former case is assigned.

(8) Other Matters: Other City cases, such as those designated on the RJI as “Other Real Property” or certain “Other Matters,” including actions against the City or City officials or employees seeking declaratory or injunctive relief, will be assigned at random to a General Assignment Part or City Part Justice regardless of who appears for the City.

The attached sets out these case assignment procedures in chart form. All assignments are made at random among the Justices assigned to particular case groups except for tax certiorari, condemnation, forfeiture, and Transit cases.

February 10, 2014

# CITY CASE ASSIGNMENT PROCEDURES

## City Parts

Tort cases (Corp Counsel (Tort Div.) appearing)

Declaratory judgment actions regarding City tort cases (Related cases)

City "Other Real Property" (RJI category)

City "Other Matters" (RJI category), including declaratory judgment and injunction actions against City

Late notice and pre-action discovery proceedings

## Transit Part

All transit cases (including where City is party)

## Condemnation

Assigned to one designated Justice

## Tax Certiorari

Assigned to one Justice

## Commercial Division

Commercial cases accepted by the Division or allowed by the AJ

## Dedicated Med Mal Parts

Med mal cases against the City - to one of two Justices (pre-note) (includes late notice proceedings)

## Forfeiture

Assigned to one designated Justice

## General Assignment Parts

Tort case (Corp Counsel (Tort Div.) not appearing)

Commercial cases (non-Division or transferred out)

City "Other Real Property" (RJI category)

City "Other Matters" (RJI category), including declaratory judgment and injunction actions against City

All Justices Designated in the Computer As Open Therefor Special proceedings (except late notice and pre-action discovery matters)

## Nuisance Abatement

Assigned to one of group of designated Justices