

HON. LETICIA M. RAMIREZ

Part 22 - Motor Vehicle Part

80 Centre Street, New York, New York 10013

Principal Court Attorney: Sonia R. Griffin, Esq.

The Motor Vehicle Part includes the courtroom (motions, hearings, trials, etc.) and the Differentiated Case Management Part ("DCM"), which supervises discovery.

Oral Argument on Motions: Wednesdays at 9:30 a.m. in Room 136 (Courtroom)

Part 22 Courtroom Part Clerk: Mr. Conquet, Phone: 646-386-3271

Note: Until further notice, working copies of all e-filed papers are required.

DCM Conferences: Mon. & Fri. 9:30 a.m. in Room 103, Phone: 646-386-3682

DCM Office (Room 102): Phone: 646-386-3683 DCM Fax: 212-952-2779

DCM Coordinators: Ms. Harwood and Mr. Snipe

I. Communications with DCM Coordinators, Part Clerk and Chambers – Including Adjournments

A. Please notify Mr. Conquet as soon as a case settles or if all parties want a settlement conference, at any point in the litigation.

B. Requests for Adjournments/Scheduling:

(1) For all motions pending in the Submissions Part (Room 130 at 60 Centre Street), follow that Part's rules regarding adjournments and scheduling. The following rules only apply to matters pending in the Part 22 courtroom or in the DCM part. For a motion to be pending in the courtroom, it must have been fully submitted in Room 130 and already rescheduled for oral argument on a Wednesday morning. We can only adjourn motions if we have the file and we only get the file after it is fully submitted in Room 130.

(2) For all scheduling matters and requests for adjournments, please call Mr. Conquet (for matters in the courtroom) or the DCM Coordinator (for DCM conferences) for instructions. Do not call chambers. Neither the Justice nor her Court Attorney handles adjournments. Please be aware that Mr. Conquet and the DCM Coordinators know when and how to consult with Justice Ramirez and will do so when necessary.

(3) All requests for adjournments must be approved in advance. Without prior approval, a stipulation will not be accepted and any failure to appear will be considered a default. To make your request, please call at least two days prior to the scheduled appearance by conference call with all counsel on the line. If approved, you will receive a new date and further instructions (i.e. submission of a stipulation). For appearances scheduled in the courtroom, contact Mr. Conquet (646-386-3271). For DCM conferences, call the DCM Coordinator (646-386-3682).

C. No *ex parte* communications. Unless specifically instructed, please do not call or e-mail chambers. Do not copy the Court on letters exchanged between counsel.

D. All decisions and orders (including DCM orders) are scanned and available on the internet (E-LAW or SCROLL). Do not call to ask whether a decision has been issued.

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II. Appearances before the Court/Motion Practice

A. If you want to withdraw a motion *after* the motion leaves the Submissions Part– either before or after argument – please advise Mr. Conquet by telephone **immediately**. (If the motion is in the Submissions Part, then follow that Part’s rules to withdraw).

B. Attorneys appearing before Justice Ramirez must be thoroughly familiar with the case. All Counsel must be prepared for settlement discussions and to have their client or adjuster “on call” by telephone.

C. Please read these rules carefully. **Your papers may be rejected for failure to follow these rules**. The failure of the movant(s) to follow these rules may result in the denial of the motion(s) with leave to renew upon proper papers. However, absent good cause, no deadline will be extended.

D. General Motion Guidelines

(1) **Motions with opposition**, after being fully submitted in Room 130, will be scheduled for a brief oral argument in the Part 22 courtroom for the next available Wednesday at 9:30 a.m. Do not deliver opposition to motions pending on the Submission Calendar to any Clerk at 80 Centre Street; submit them in Room 130.

(2) **Motion Sequence Number (“MSQ”)**: Often several motions are submitted at the same time. To keep papers organized, the first page of EVERY motion paper (notice of motion, opposition, reply, exhibits, etc.) **must reflect the respective MSQ** in the upper right corner.

(3) **Multiple Parties**: If the case has multiple plaintiffs or defendants, then you must state **which specific party(ies)** you represent in your motion papers **and** on the litigation back. Do not state that you represent “defendants” unless you represent all defendants.

(4) Exhibits:

(i) **Tabs**: All exhibits must be identified by protruding tabs.

(ii) **Referring to exhibits**: Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations so the exact location within the exhibit can be found easily. For example, a citation to physical therapy notes contained within an exhibit of medical records should be identified as “physical therapy note dated xx/xx/xx, Exhibit B, page 9”; it should not just refer to “Exhibit B”. Likewise, while the entire EBT transcript must be annexed, any reference thereto must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or “relevant portions”.

(5) If there is a discrepancy between the relief sought in your notice of motion and the relief sought in your supporting papers, the notice of motion is controlling.

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(6) **E-Filed papers:** The Court requires courtesy/working copies of all e-filed papers; kindly submit these in Room 130 on the return date and they will be delivered to Chambers with the motion. Do not submit copies directly to chambers.

E. General Orders to Show Cause (“OSC”): Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary (or with proof the adversary has been notified, but declined to appear) when the application is presented for signature.

F. Orders to Show Cause to be relieved as counsel: Do not bring your adversary, but you must make sure you provide enough information for Justice Ramirez to fashion a method of service likely to reach your client.

G. Motions to Renew/Reargue: Please provide a separate appendix, labeled “original motion and decision”, containing all papers submitted on the original motion and a copy of the Court’s decision. In the appendix, please provide protruding tabs as the exhibits were originally submitted to the Court.

H. Motions/special proceedings submitted on default in Room 130 are generally not scheduled for oral argument. However, **the movant must make certain that an affidavit of service is annexed**, even for e-filed motions. Without a proper affidavit of service, relief will be denied.

I. Discovery motions are strongly discouraged.

(1) We have two full time DCM Coordinators and a conference system to handle discovery. Please maximize use of these valuable resources.

(2) All initial discovery motions will be converted into a Case Scheduling Order. You should avoid a motion by simply filing an RJI with a request for a preliminary conference and you will receive a Case Scheduling Order without having to appear.

(3) If you already have a Case Scheduling Order or already have had one or more compliance conferences and still have a discovery dispute, see Rule IV(B) below.

(4) If the dispute cannot be resolved at the conference, then the issue(s) will be narrowed and the DCM Order will specifically allow a motion to be brought and must set forth a briefing schedule. A copy of that conference order, as well as all other conference orders, must be annexed to all discovery motions.

J. Summary judgment motions

(1) **All summary judgment motions must be made no later than 60 days after filing the Note of Issue** - there are no exceptions without leave of Court. In the notice of motion or early in the affirmation in support, please state the date the Note of Issue was filed and that the motion is timely. Absent good cause for late filing, a late motion will be denied, even if your adversary does not object.

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(2) Cross-motions, especially cross-motions seeking relief unrelated to the main motion, DO NOT relate back to the date the original motion was made. "Me too" motions are not cross-motions as they do not seek relief against the movant.

(3) Discovery must continue during the pendency of a CPLR §3212 motion, unless good cause is shown for a stay. Consult the DCM Coordinator at the conference regarding the "good cause"; the DCM Coordinator will consult with Justice Ramirez, if necessary. A stipulation will not suffice; any stay must be so-ordered.

III. Notes of Issue

A. A Note of Issue may NOT be filed unless a stipulation is so-ordered certifying that discovery is complete. Improperly filed Notes of Issue may be stricken *sua sponte*.

B. Usually, the certification of completed discovery will be made at the final compliance conference. However, if all parties agree that discovery is complete before that date, then you can avoid the conference by mailing or faxing a stipulation to the DCM Coordinator at least two days before the scheduled conference. The stipulation must certify that all discovery is complete and provide for the filing of the Note of Issue. The DCM Coordinator will provide a date by which the note of issue must be filed and the so-ordered stipulation will be scanned and will appear on SCROLL.

IV. DCM/Compliance Conferences

A. A Bill of Particulars and authorizations are the foundation upon which much discovery is based. **Accordingly, the failure of the plaintiff to provide a Bill of Particulars and HIPAA compliant authorizations by the first compliance conference, without good cause shown, may result in the plaintiff being precluded from offering any evidence of damages.**

B. Conferences are Important; be prepared.

(1) We have invested significant resources in the DCM system because **we take discovery seriously**. The rules of this Part require compliance with court-ordered deadlines. Remember, these are court orders, not suggestions. The failure to adhere to deadlines and comply with orders may result in serious penalties. Counsel attending the conference are expected to be familiar with the case and have the authority to discuss and stipulate to resolve all discovery issues.

(2) At each compliance conference, **counsel MUST bring a list** of all discovery previously ordered but not yet completed as well as new discovery requested which could not have been previously addressed (and be ready to explain why it could not have been addressed). Failure to address all outstanding discovery existing at the time of the compliance conference may be deemed a waiver of the right to obtain said discovery.

(3) Please bring copies of all prior conference orders and stipulations to the conferences. If you have any motions pending in the Motion Submission Part, or which are *sub judice*, please bring this to the attention the Part 22 Clerk and consult with the DCM Coordinator.

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(4) Counsel are assumed to have consulted clients, examining doctors, etc. regarding their availability for EBTs, IMEs and the like.

(5) Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading may be stricken. Any motion to vacate such a default must be brought by Order to Show Cause and must fulfill the requirements of CPLR §5015.

(6) **If a dispute arises about compliance** with any discovery order, or if deadlines are passing without discovery being provided, **DO NOT WAIT** until the next conference to report, in effect, that nothing has been done. As an officer of the Court, it is counsel's responsibility to comply with court orders and to report non-compliance. If your good faith efforts to resolve the dispute fail, then immediately, before the deadline and without making a motion, call the assigned DCM Coordinator. Then, upon the DCM Coordinator's discretion, the case will be scheduled for a resolution conference (in person or by telephone) or the date of the next scheduled conference will be advanced.

(7) Absent good cause, failing to report discovery problems with DCM immediately, in advance of the deadlines, or failing to comply with any discovery order or DCM Discovery Reminder Notice, may result in the imposition of penalties upon the offending party and, where warranted, upon counsel. Penalties may include waiver of the discovery, preclusion, dismissal, striking the Answer, costs, sanctions and attorneys' fees.

(8) All ordered discovery is important, but counsel should be particularly aware that severe penalties are likely to be imposed for the following noncompliance, because there is little excuse for counsel failing to provide/schedule discovery, since it is so routine:

- (i) Plaintiff's failure to timely provide a Bill of Particulars and HIPAA compliant authorizations.
- (ii) The failure of defendant to timely give notice of, designate physicians for, schedule or conduct IMEs of plaintiff and serve the resulting reports.
- (iii) The failure of plaintiff to attend the IMEs.
- (iv) The failure of any party to schedule and attend a deposition.

C. Instructions Applicable to Compliance Conference Orders

(1) Please write legibly with a black ball point pen. Press hard. Illegible orders will not be signed. You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.

- (2) The DCM Case Coordinators have been instructed not to make copies. Although you are free to take a picture of the stipulation with your phone, keep in mind that all orders will be scanned and will appear on SCROLL.

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(3) Use complete dates, including the correct year. Please remember that some of the dates you are selecting may be in the next calendar year.

(4) Use firm cut-off dates such as “on or before December 31, 2016.” Do not use “within 45 days,” etc. Because you are assumed to have consulted your clients and examining doctors regarding their availability for EBTs and IMEs, you will be held to the dates to which you commit. Pick a reserve date if you have any uncertainty.

(5) If you have not complied with the “on or before” dates in the Case Scheduling Order/Preliminary Conference Order or the first Compliance Conference Order, then you must pick a specific date during the second compliance conference for the EBTs, IMEs, etc. That is, you get two chances to comply with “on or before” dates. The second Compliance Conference Order must set forth specific dates and include penalty language (preclusion, etc.) for noncompliance and may add “unless good cause is shown for the noncompliance”. If you have not complied, then come prepared to the next compliance conference with affidavits, plane tickets, death certificates or proof of hospitalization to prove any claimed “good cause”.

(6) Non-specific statements such as “all discovery not yet provided” or “unless otherwise provided” or “to the extent not yet provided” will not preserve any rights. Each attorney is expected to know what has been provided and what has not. See Rule IV(B)(2) above about bringing a list of all outstanding and requested discovery to every conference and waiver of discovery.

Trial Rules will be given to the attorneys when they are assigned to the Part for trial.