

IA6 - Med Mal Part - Room 704
Part Rules - Revised 5/5/15

Justice Stanley Green

All cases involving medical, dental or podiatric malpractice and nursing home patient care, except those against the NYCHHC and Montefiore and Columbia Presbyterian hospitals, will be assigned to part IA6 for all purposes, except trial.

1. A **Preliminary Conference** will not be held unless a Bill of Particulars has been served with respect to each defendant. At the Preliminary Conference, all outstanding discovery issues must be resolved. That is, if counsel have any problem with any portion of any previously served demand, the objection must be raised at the conference or it is waived. A Compliance Conference date will be set in the PC order. Counsel must be prepared to advise the Court of the nature of the case with reasonable detail at the PC.
2. **ALL COUNSEL MUST COMPLY WITH ALL DISCOVERY ORDERS BY THE DATES SET IN THE ORDERS.**
3. If any discovery problem arises between conferences, counsel must contact chambers to request a conference, either by calling 718-618-1420 or emailing my law secretary, Ann Chabot (achabot@nycourts.gov). A conference call or a conference in court will be scheduled. **No discovery motions may be made without prior court authorization.** The clerk's office is not supposed to accept discovery motions without an order from me or an affidavit that it has been authorized by me. If a discovery motion without prior authorization is forwarded to me by the clerk, it will be denied and a conference will be scheduled unless one is already scheduled in the near future.
4. Substitution of counsel at any stage is not an excuse for failing to comply with a court order. Any possible conflict of interest requiring new counsel should be identified immediately so as not to delay discovery or trial.

5. A Note of Issue may not be filed without an order from me or a stipulation by all attorneys that all discovery has been completed. Call me if there is any dispute regarding outstanding discovery. If a Note of Issue is filed without an order or a stipulation, it will be vacated and a conference will be scheduled unless one is already scheduled in the near future.
6. Initial Pre Trial Conferences will be held within 45 days of the filing of the Note of Issue pursuant to CPLR 3409. Subsequent PTC's will be scheduled as appropriate. **Counsel must be fully knowledgeable** regarding the facts, the medicine and the law and bring all relevant documents, including medical records, expert reports (experts' names redacted) and photos. Counsel should bring articles to support their claims in cases in which there are scientific, rather than just factual, disputes. They should also bring appellate cases and reported settlements to support their claims regarding the value of the case. **Plaintiff's counsel must convey a demand to all defendants' counsel well in advance of the initial PTC**, preferably on or before the filing of the Note of Issue, and counsel for defendants should promptly convey the demand to the carrier. The Court intends to have meaningful PTC's to facilitate early resolution. The full cooperation of counsel will be appreciated. **A perceived unreasonable demand is not an excuse for failing to make a reasonable offer. When appropriate, an afternoon conference will be scheduled to allow time for a fuller discussion, i.e. a free mediation session.**
7. The Court will set times for exchange of 3101(d) responses at an early PTC in order to clarify the issues and facilitate settlement discussions. **The 3101(d)'s must be detailed and specific, not boilerplate.** For example, the expert should not just say that (s)he reviewed records, (s)he should list the specific records reviewed. If it is alleged that a defendant failed to do appropriate tests, those tests must be specified. If it is claimed that a plaintiff failed to follow a doctor's instructions, the expert must state what those instructions were, when they were given, etc. In other words, the 3101(d)s must clearly set forth the opinions of the experts so that the other side is on notice of the proposed testimony and can properly prepare for settlement discussions and trial.

8. **Summary judgment motions may be made within 120 days of the filing of the Note of Issue.** Prior 3101(d) exchanges are not a prerequisite to a summary judgment motion or opposition thereto. Annex **hard copies** of only those pages of the medical records and depositions to which specific reference is made in the affidavits/affirmations and a disc containing the complete medical records and deposition transcripts you need for a complete record on appeal. For e-filed motions, submit hard copies of only those pages of the medical records and transcripts to which specific reference is made. No discs are required for e-filed motions since all supporting documents have been e-filed.
9. Cases will be tried in the same time frame as before. We will attempt to adhere to firm trial dates, but, as you know, that is not always possible. Counsel should consult with their witnesses before agreeing to a trial date and advise their adversaries and the court of any scheduling problems as soon as they become aware of them.
10. When a case is sent out for trial by me, the case is to be tried expeditiously. **Counsel may not request an adjournment** from the trial assignment clerk or the judge assigned to try the case.
11. All subpoenas for cases in this part must be submitted to the part clerk. Do not submit subpoenas returnable to the Court before the case is scheduled for trial absent a compelling need set forth in a brief affidavit or conversation with the Court.
12. Counsel for each party shall submit a **one or two page summary** of the case from their client's perspective, including the relevant history, diagnosis, treatment, injuries, damages, etc. and explanations and definitions of medical terminology. Email it to me prior to the next **pre-trial conference** at sgreen@nycourts.gov. The purpose of these summaries is to educate me and make the conferences more productive. You do not have to exchange them with opposing counsel. Indicate if any information that you provide to me is confidential and not to be disclosed.

13. Expert affirmations submitted in summary judgment motions should be the **first** exhibit so we don't have to search for it.
14. Use **tabs** for exhibits so they are easier to find.
15. With regard to **Infant's Compromise** and **Wrongful Death Compromise** orders, do not deduct expenses for legal research, travel, parking, postage, calendar watch, e-law, per diems or interest on lawyer loans.
16. The telephone number of the part is 718-618-1252.
17. The part clerk is Shermeka Holmes-Rosa.
18. **Reread and follow my rules.**