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Plaintiff

-against-

A

Defendant

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**PRELIMINARY CONFERENCE  
AND CASE SCHEDULING  
ORDER**

Index No. \_\_\_\_\_

**Hon. Myrna Socorro, J.S.C.**

A Request for Judicial Intervention along with a request for a Preliminary Conference or a motion, having been filed or the Court having acted on its own initiative, pursuant to 22 NYCRR §202.12(j) this matter is assigned to Part IA-9.

Discovery not yet provided shall proceed in accordance with the deadlines set forth below.

**THE DATES IN THIS ORDER MAY NOT BE EXTENDED WITHOUT  
ADVANCE APPROVAL BY THE COURT. STIPULATIONS, UNLESS SO  
ORDERED BY THE COURT, WILL NOT BE HONORED.**

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**RESOLUTION OF DISPUTES/PENALTIES FOR NON-COMPLIANCE**

If disputes arise about compliance with this Order, the parties shall confer to try to resolve them. If that effort fails, then counsel of record shall, **no less than two (2) weeks** in advance of deadlines and prior to initiating motion practice, bring the dispute to the attention of the Court as set forth in the Part Rules of IA-9. The parties are advised, however, that nothing in this paragraph relieves them of the obligation of demonstrating sufficient good faith efforts to resolve their discovery disputes without resorting to court intervention via motion (see 22 NYCRR §202.20-f). Absent good cause, non-compliance with this order, including the failure to raise discovery problems in advance of deadlines, may result in the imposition of penalties upon the offending party, and, where warranted, upon counsel. Such penalties may include waiver of the discovery, preclusion, dismissal, striking of a pleading, costs, sanctions and attorney's fees.

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**(1) Mandatory Notification.** All parties and/or law firms having associated an email address with the action at the NYSCEF site are deemed to have been served with this Order as of its filing. Plaintiff's attorney shall within ten (10) days thereafter, transmit a copy to any appearing party who has not consented to e-file and shall e-file proof of said transmission within ten (10) days thereafter. For hard-copy cases, plaintiff's attorney shall, within ten (10) days after entry of this order, transmit a copy to the other parties and shall file proof of said transmission within ten (10) days thereafter.

**(2) Insurance Information.** Where applicable, and pursuant to CPLR §3101(f), all parties shall exchange insurance and coverage information, including primary, excess and umbrella policies, within fourteen (14) days from the date of this order. If there is no primary or excess or umbrella policy, a notarized affidavit to that effect, signed by the defendant(s) or a principal of the defendant(s) stating same, shall be provided within fourteen (14) days from the date of this order.

**(3) Bill of Particulars**

- a) if not already served, demand for Bill of Particulars by defendant(s) to plaintiff(s) shall be served by \_\_\_\_\_. Verified Bill of Particulars by plaintiff(s) to defendant(s) shall be served by \_\_\_\_\_.
- b) if not already served, demand for Bill of Particulars by third-party defendants to third-party plaintiff(s) and direct plaintiff (s) shall be served by \_\_\_\_\_. Verified Bill of Particulars by third-party plaintiff(s) and direct plaintiff(s) shall be served by \_\_\_\_\_.
- c) if not already served, demand for Bill of Particulars as to affirmative defenses by direct plaintiff(s) to defendants shall be served by \_\_\_\_\_. Verified Bill of Particulars as to affirmative defenses by defendant(s) to plaintiff(s) shall be served by \_\_\_\_\_.
- d) As to any Verified Bill of Particulars served by any party no more than thirty (30) days prior to the date of this order, any notice of deficiency shall be served by \_\_\_\_\_ and Supplemental Verified Bill of Particulars will be served by \_\_\_\_\_.

**(4) Authorizations.** Where applicable, properly executed HIPAA-compliant authorizations for all medical records pertaining to this action, and for relevant prior and subsequent injuries/conditions shall be served by \_\_\_\_\_.

Where applicable, properly executed HIPAA-compliant authorizations for Worker's Compensation Board, Worker's Compensation insurance, and Worker's Compensation attorney (as to the non-privileged portion of the file), if any, pertaining to this action shall be served by \_\_\_\_\_.

Where applicable, properly executed authorizations for employment records for two (2) years prior to the date of the cause of action to present shall be served by \_\_\_\_\_.

All direct and all third-party defendants shall process each authorization within twenty-one (21) days of receipt and shall follow up at least bi-weekly until the records are received, so that the requested material will be received before the plaintiff's deposition date as ordered herein. If plaintiff timely provides proper authorizations, then non-receipt of records shall not be grounds for delaying plaintiff's deposition unless proof of timely processing and follow-up is provided to plaintiff and/or the court.

**(5) Depositions.** If plaintiff timely complies with #4 above, then all depositions must be completed by \_\_\_\_\_. Plaintiff shall be deposed first, and defendants shall be deposed in the order in which their names appear in the caption, unless the parties agree in writing otherwise. Within fourteen (14) days of this order, the parties shall confer and agree upon a deposition schedule in compliance with this deadline. Absent extraordinary circumstances, the failure of one defendant to appear as scheduled shall not constitute an excuse for the refusal of others to submit to deposition as scheduled and within the deadline fixed above. Any plaintiff or defendant that is to be deposed that requires the services of an interpreter for deposition, their attorney shall be responsible for advising their adversaries, **in writing**, as to an interpreter being required to conduct the deposition. Said written notice shall be sent at the onset of discussion of a deposition schedule. If an interpreter is required for deposition for plaintiff, then deposition shall be held with 2 dates for completion, one day for liability and one day for damages.

Depositions are either in-person at a place to be determined, or the parties may agree in writing that they may be held virtually.

Post EBT demands are to be made by \_\_\_\_\_ and post EBT responses are to be made by \_\_\_\_\_.

**(6) Witness and Other Disclosures.** All parties shall exchange statements of opposing parties, photographs, and the names and addresses of all fact witnesses by \_\_\_\_\_. If any of these items do not exist, then the parties shall serve by that date an affirmation clearly so specifying.

Any discovery demands that have been served on or before the date of this order that have not yet been responded to, shall be responded to by \_\_\_\_\_.

Any discovery demands that may still be made, by statute or rule, are to be served on or before \_\_\_\_\_ and shall be responded to by \_\_\_\_\_.

**(7) Physical Examination/IME and Reports (Uniform Rule §202.17).** Where applicable, physical examination(s) of the plaintiff shall be designated, with a copy to all parties by \_\_\_\_\_ and shall be completed by \_\_\_\_\_. Copies of the medical reports generated from the physical examination/IME shall be furnished to plaintiff within thirty (30) days of the examination.

**(8) Impleader Actions.** Any impleader actions shall be filed and served by \_\_\_\_\_ and shall be served forthwith. Failure to do so may result in severance of the third-party action.

**(9a) Default motions.** If any defendant(s), or any third-party defendant(s) have failed to appear or answer, then the plaintiff(s) or third-party plaintiff(s), as the case may be, shall file a motion for default against the non-appearing/non-answering defendant(s) or non-appearing/non-answering third party defendant(s) to be returnable, no less than seventy-five (75) days and no more than ninety (90) days from date of service of the Summons/Complaint, or any Third-Party Summons/Complaint, as the case may be.

**(9b) Motions (not default and not summary judgment).** The parties are to follow the part rules as to the filing of motions that are not related to default and not related to summary judgment. Prior to filing any motions related to non-compliance with discovery the parties must make efforts to resolve their discovery disputes in good faith. The parties have an obligation of demonstrating sufficient good faith efforts to resolve their discovery disputes without resorting to court intervention via motion (see 22 NYCRR §202.20-f).

**(10) Mandatory Compliance Conference.** Will be held on \_\_\_\_\_ at \_\_\_\_\_ A.M/P.M. Only counsel fully familiar with the case and authorized to settle, stipulate or dispose of the action shall appear at the conference. In-person appearances are mandatory.

Stipulations to adjourn a Compliance Conference or a Status Conference where an appearance is required, must be made in writing and submitted to the part via email at : [BxSupCiv-IA9@nycourts.gov](mailto:BxSupCiv-IA9@nycourts.gov) at least 72 hours prior to the scheduled date and time. No adjournments will be granted that adjourn a matter for more than 30 days. If more than 30 days is required, the parties are to provide a written explanation of why more than 30 days is necessary

**(11) Note of Issue.** The date to file the Note of Issue (NOI) shall be determined at the final compliance/status conference. If all parties agree that discovery is complete prior to any scheduled compliance/status conference date, the parties may submit a stipulation signed by all parties certifying that discovery is complete and providing for a date and for the filing of the Note of Issue. The stipulation shall be uploaded to NYSCEF using document type “**Stipulation-Trial Readiness (Request to So Order)**” and must be emailed with the NYSCEF Confirmation Notice to [BXSUPCIV-IA9@nycourts.gov](mailto:BXSUPCIV-IA9@nycourts.gov) and to [ccoller@nycourts.gov](mailto:ccoller@nycourts.gov) at least five (5) days before the final compliance/status conference. If approved, the Court shall “so order” the stipulation and provide a date by which the NOI must be filed. The so ordered stipulation will be processed by the clerk and uploaded to NYSCEF. **Parties may not file a Note of Issue (NOI) until all discovery is complete and certified as such by order of this Court. Premature filing may result in the Note of Issue (NOI) being vacated or the imposition of other sanctions.**

Failure by the plaintiff to file the Note of Issue and Certificate of Readiness on or before the date determined at the final compliance/status conference or specified within a So Ordered Stipulation, may subject the plaintiff to dismissal of the action.

Once the Court issues the date for filing of the Note of Issue, the **parties may not stipulate to extend the filing date without Court approval, and Court approval may only be obtained by filing a notice of motion requesting such relief.**

**(12) Summary Judgment Motions.** Summary judgment motions shall be made no later than sixty (60) days after filing the Note of Issue (CPLR §3212[a]). Motions made before filing the Note of Issue (NOI) stay the discovery ordered herein. The parties are to follow the part rules as to the filing of the motions. Further in addition to the part rules the parties should be aware that no motion will be adjourned for a) more than 60 days; or b) more than 3 times not to exceed a cumulative of 60 days. If the parties are stipulating to an adjournment of any motion, the parties must stipulate as to the due dates of any opposition and replies or cross motions, and the new return date of the motion, all within the sixty (60) days of the original return date of the motion.

**(13) Trial Authorizations.** Properly executed HIPAA-compliant authorizations shall be served on all defendants and all third-party defendants, if any, one-hundred twenty (120) days before trial.

**(14) Settlement Conferences.** The Court will always be available to facilitate Settlement Conferences (pre-NOI and post-NOI) as long as all parties appearing in the action sign a Stipulation requesting same. If the parties wish to have a Settlement Conference after discovery is complete and before the NOI is filed, the parties may sign a Stipulation requesting same and e-file said Stipulation via NYSCEF and send a copy to [BXSUPCIV-IA9@nycourts.gov](mailto:BXSUPCIV-IA9@nycourts.gov) and a copy to [ccoller@nycourts.gov](mailto:ccoller@nycourts.gov). It is suggested that the parties familiarize themselves with this Court's part rules regarding settlement conferences.

**(15) Other:** \_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Counsel will be required to justify at the Compliance Conference the reasons for failure to adhere to the discovery schedule set forth herein. In the event of non-compliance, costs or other sanctions may be imposed.**

Unless provided for otherwise above, failure to appear at the Mandatory Compliance Conference date may result in a default against that party and may also result in the imposition of penalties that may include waiver of the discovery, preclusion, dismissal, striking of a pleading, costs, sanctions and attorney's fees.

Counsel appearing before the Court are also directed to familiarize themselves with the part IA-9 rules as published.

Dated: \_\_\_\_\_

SAMPLE - NOT FOR SIGNATURE

\_\_\_\_\_  
HON. MYRNA SOCORRO, J.S.C.