



STATE OF NEW YORK
UNIFIED COURT SYSTEM
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A. GAIL PRUDENTI
Chief Administrative Judge

JOHN W. McCONNELL
Counsel

MEMORANDUM

April 16, 2015

To: All Interested Persons

From: John W. McConnell

Re: Proposed new Model Status Conference Order Form for use in the Commercial Division.

The Commercial Division Advisory Council has recommended adoption of a new Model Status Conference (“SC”) Order Form for use in the Commercial Division (Exh. A). The proposed SC Form tracks the Model Preliminary Conference (“PC”) and the Model Compliance Conference (“CC”) Forms that were promulgated for use in the Commercial Division effective June 2, 2014 and April 1, 2015, respectively. As with the PC and CC Forms, the new SC Form is intended to serve as a model form and its implementation would not be mandatory.

Persons wishing to comment on this proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York 10004. **Comments must be received no later than June 10, 2015.**

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

MEMORANDUM

TO: **COMMERCIAL DIVISION ADVISORY COUNCIL**

FROM: **Subcommittee on Best Practices for Judicial Case Management**

RE: **NEW MODEL STATUS CONFERENCE ORDER**

DATE: **March 16, 2015**

The Subcommittee on the Best Practices for Judicial Case Management (“The Best Practices Subcommittee”) has prepared a new Model Status Conference Order (“SC”) Form for the Advisory Council’s consideration.

The new SC Form tracks the adopted Preliminary Conference (“PC”) Form and the Model Compliance Conference (“CC”) Form in that it presumes the parties have filled out the PC Form, returned to Court a number of months later to report on their progress concerning discovery on their CC Form and are now again returning to the Court to identify on their SC Form the final discovery matters that need to be completed before the Note of Issue is filed.

The new SC Form is the final form in the trilogy of the proposed new forms including the PC Form and the CC Form, both of which already have been promulgated by the Chief Administrative Judge after a public review period with the advice and consent of the Administrative Board of the Court for optional use in the Commercial Division. The new SC Form includes:

- A section concerning the History of the Case, including the history of possible third-party complaints.
- A section on motion practice in order for the Court to understand the history and complexities of the case.
- The Current Status of the case, including sections on Document Discovery, Depositions, and Electronic Discovery.

The SC Form presumes the parties are working diligently to complete the necessary discovery before the filing of the Note of Issue. The form is designed to provide the mechanism to help practitioners formulate what additional work needs to be done to complete the necessary discovery. The Status Conference is not presumed to be the final time the parties will have to return to the courtroom to complete discovery but is intended to help the parties approach a successful completion of this phase of the case.

Once again, we have a section on Alternative Dispute Resolution which is designed to focus the practitioners' attention on the need to avail themselves of mechanisms to reach a satisfactory resolution of their case.

The Best Practices Subcommittee respectfully requests that the new Status Conference Order Form, attached hereto, be considered for adoption by the Advisory Council.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X

Present: Hon. _____

Part: _____

Plaintiff(s)

- against -

Index No.: _____

RJI Filing Date: _____

**MODEL STATUS
CONFERENCE ORDER**

Defendant(s)

-----X

This Status Conference Order presupposes that the parties have conducted the discovery needed in their case in a diligent, effective manner. The purpose of this Status Conference Order is to identify the final discovery matters that need to be completed before the Note of Issue is filed.

I. HISTORY OF THE CASE

Please indicate the following:

- (a) The date the Preliminary Conference Order was signed: _____
- (b) The date the Compliance Conference Order was signed: _____
- (c) Has there been a Status Conference Order(s)? YES NO

If YES, when _____

Plaintiff _____
v. Defendant _____

Index Number: _____
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(d) Was the original Complaint amended? ____ YES ____ NO

If YES, please indicate the date that each amended Complaint was filed:

Please briefly describe what changes were made to the original Complaint in the amendments:

(e) Have the parties served a third-party summons and complaint?

____ YES ____ NO

If YES, please answer the following questions:

(i) Has there been motion practice concerning the third-party complaint?

____ YES ____ NO

(ii) If YES, please indicate the motion sequence number; which party made the motion; the relief requested in the motion; the decision, if any; whether there is an appeal pending and/or whether the motion is *sub judice*, the date it was submitted and/or the date it is scheduled to be argued.

Mot. Seq. ____:

Plaintiff _____
v. Defendant _____

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Mot. Seq. ____:

Please use additional sheets, if necessary.

(iii) Has document discovery concerning the third-party action been completed?

____ YES ____ NO

If NO, please indicate when it will be completed:

(iv) Have depositions concerning the third-party action been completed?

____ YES ____ NO

If NO, please indicate when the depositions will be completed:

(f) In the main action, are there previously decided and/or pending motions?

____ YES ____ NO

If YES, please indicate the motion sequence number; which party made the motion; the relief requested in the motion; the decision, if any; whether there is an appeal pending and/or whether the motion is *sub judice*, the date it was submitted and/or the date it is scheduled to be argued

Mot. Seq. ____:

Mot. Seq. ____:

Please use additional sheets, if necessary.

Plaintiff _____
v. Defendant _____

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II. CURRENT STATUS OF THE CASE

(a) DOCUMENT DISCOVERY

Has Document Discovery been completed? _____ YES _____ NO

If NO, please explain:

(i) Why has Document Discovery NOT been completed?

(ii) What remains to be done?

(iii) Original date Document Discovery was to be completed:

Date that Document Discovery WILL BE completed:

(b) DEPOSITIONS

Have Depositions been completed? _____ YES _____ NO

If NO, please explain why depositions have not been completed:

Plaintiff _____
v. Defendant _____

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Please state the name, the relationship of that person to the case and the date and place that the person's deposition will be taken:

Name and that person's relationship to the case:

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

Date and place where that person's deposition will be taken:

- _____
- _____
- _____
- _____
- _____

Please use additional sheets, if necessary.

(c) ELECTRONIC DISCOVERY:

Have the parties conducted Electronic Discovery? _____ YES _____ NO

If YES, please answer the following questions:

(i) Has Electronic Discovery been completed? _____ YES _____ NO

(ii) If NO, please indicate the current status of Electronic Discovery:

(iii) Please describe what problems and issues the parties have encountered relating to Electronic Discovery:

Plaintiff _____
v. Defendant _____

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- (iv) What, if anything, can this Court do to facilitate the successful completion of Electronic Discovery?

- (v) When will Electronic Discovery be completed?

(d) END DATE FOR FACT DISCLOSURE:

- (i) What is the current end date for Fact Disclosure?

- (ii) What is the proposed NEW End Date for Fact Disclosure?

- (iii) The Court _____ **ACCEPTS THIS NEW END DATE FOR FACT DISCLOSURE**

_____ **DOES NOT ACCEPT THIS NEW END DATE FOR FACT DISCLOSURE**

- (iv) The Court sets _____ as the Final End Date for Fact Disclosure.

Plaintiff _____
v. Defendant _____

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(e) EXPERT DISCOVERY (if any):

Has there, or will there be Expert Discovery? ____ YES ____ NO

If YES, please answer the following questions:

(i) Has Expert Discovery begun? ____ YES ____ NO

If NO, please indicate when Expert Discovery will begin:

(ii) Have the parties exchanged Expert Reports? ____ YES ____ NO

If NO, when do the parties anticipate exchanging the reports?

(iii) Have the parties commenced Expert Depositions?

____ YES ____ NO

(iv) Have the parties finished Expert Depositions?

____ YES ____ NO

(v) If NO, when will Expert Depositions be completed?

(vi) (1) What is the current end date for Expert Discovery?

(2) What is the proposed NEW end date for Expert Discovery?

Plaintiff _____
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(3) The Court _____ **ACCEPTS THIS NEW END DATE FOR EXPERT DISCOVERY**

_____ **DOES NOT ACCEPT THIS NEW END DATE FOR EXPERT DISCOVERY**

(4) The Court sets _____ as the new **END DATE** for Expert Discovery.

(g) END DATE FOR ALL DISCOVERY:

(i) What is the current end date for All Discovery?

(ii) What is the proposed NEW end date for All Discovery?

(iii) The Court _____ **ACCEPTS THIS NEW END DATE FOR ALL DISCOVERY**

_____ **DOES NOT ACCEPT THIS NEW END DATE FOR ALL DISCOVERY**

(iv) The Court sets _____ as the new **END DATE** for ALL Discovery.

Plaintiff _____
v. Defendant _____

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III. FINAL DIRECTIVES

(a) NOTE OF ISSUE

(i) What is the current Note of Issue deadline?

(ii) What is the proposed NEW Note of Issue deadline?

(iii) The Court _____ **ACCEPTS THIS NEW NOTE OF ISSUE DEADLINE**

_____ **DOES NOT ACCEPT THIS NEW NOTE OF ISSUE DEADLINE**

(iv) The Court sets _____ as the new **DEADLINE** for filing the NOTE OF ISSUE.

(b) DISPOSITIVE MOTIONS

All dispositive motions shall be made on or before _____
or within _____ days after filing the Note of Issue.

The Court encourages the parties to confer and agree on the dates by which the opposition and reply papers will be exchanged and e-filed.

(c) STATUS CONFERENCE

Parties or their representative with knowledge of the case and all previous conference and discovery orders shall appear for any and all subsequent Status Conference(s).

Plaintiff _____
v. Defendant _____

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IV. ALTERNATIVE DISPUTE RESOLUTION

The Judges in the Commercial Division encourage all parties to work towards a proper and just resolution of the issues in the case. The Judges in the Commercial Division believe that the earlier a proper and just resolution can be reached, the better off the parties will be. To that end, the Judges ask the litigants in this case to consider any and all mechanisms to resolve the issues before them.

In the previous conference orders the parties stated that they would be using one of the following alternative dispute resolution mechanisms in this case: (i) a settlement conference; (ii) participation in the Commercial Division's Alternative Dispute Resolution Program (if applicable); and/or (iii) retention of a private mediator. Counsel for the parties stated they planned to use the following alternative dispute resolution mechanisms in this case:

- (a) Has the alternative dispute resolution mechanism commenced?

____ YES ____ NO

- (b) If NO, when is it scheduled to commence?
-

- (c) If NO, please explain *why* the alternative dispute resolution has not commenced?
-
-
-

* * *

Plaintiff _____
v. Defendant _____

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The parties are to return for another STATUS CONFERENCE on

_____ at _____.

* * *

**THE DATES SET FORTH HEREIN MAY NOT BE ADJOURNED
EXCEPT WITH THE APPROVAL OF THE COURT.**

**THE PARTIES MUST BRING COPIES OF ALL DISCLOSURE
ORDERS TO ALL CONFERENCES.**

So Ordered

Date: _____

J.S.C.