

Presiding: HON. THOMAS D. BUCHANAN, J.S.C.

**PRELIMINARY CONFERENCE
STIPULATION and ORDER
MEDICAL, DENTAL AND
PODIATRIC MALPRACTICE**
(Uniform Rules § 202.56(b))

*,

Plaintiff(s),

v.

*,

Defendant(s).

Index No. *

RJI No. 46-

*Print Actual Date
(Not "30 days" etc.) or
"N/A" if Not Applicable*

It is hereby Stipulated and Ordered that disclosure shall proceed as follows:

- (1) **Insurance Agreement (CPLR § 3101(f))**, if not already provided, shall be furnished by. _____
- (2) **Demands for Bill of Particulars** shall be served by. _____
- (3) **Bills of Particulars** shall be served by. _____
- (4) **Medical and Hospital Records and Authorizations** shall be served by. _____
- (5) **Physical Examination** of Plaintiff(s) shall be conducted by _____
and shall be completed by. _____

A copy of the **Physician's Report** shall be furnished to Plaintiff(s) within _____ days of the examination.

(6) *Check either box (a) or (b):*

(a) **Depositions** shall be held as follows:

Deponent	Place	
_____	_____	on _____
_____	_____	on _____
_____	_____	on _____

or

(b) The parties shall set a schedule for **Depositions**, which are to be held no later than _____
The parties shall provide the Court with the schedule.

(Check box if it applies)

- If one deposition fails to take place as scheduled, the remaining parties' depositions shall nonetheless proceed as scheduled, except that the priorities between the plaintiffs and defendants shall be preserved.

(7) All parties shall exchange names and addresses of all **eyewitnesses** and **notice witnesses, statements of opposing parties, photographs, videotapes** and **audiotapes**, or if none, provide an affirmation to the effect, by. _____

(8) **Authorizations for Plaintiff(s)'s employment records** for the period _____ to _____ shall be furnished by. _____

(9) **Demands for Discovery and Inspection and Interrogatories** shall be served by _____
The items sought shall be produced to the extent not objected to, and objections, if any, shall be stated on or before. _____

(10) Plaintiff(s) shall provide authorizations for the following **collateral source of payment providers** pursuant to CPLR § 4545 as follows:

_____ by _____
_____ by _____
_____ by _____

(12) **Motion(s) to Amend Pleadings or to Add Party(ies)** shall be filed with the Court no later than _____

(13) **END DATE FOR ALL DISCLOSURE**, other than Expert Disclosure, shall be *(Must be within 12 months of date of the filing of the Notice of Medical, Dental or Podiatric Malpractice Action)*. _____

(14) Any **Depositions of Experts** pursuant to CPLR § 3101(d)(1)(ii) shall be completed by _____

(15) **Motion for Additional Expert Disclosure** shall be filed with the Court by _____

(16) (a) **Medicaid Lien Plaintiffs** shall provide proof that an **Adjudicated Claim Report** (for medical services) has been requested from **HMS** and the amount of any cash assistance has been requested from the appropriate County Department of Social Services *(Must be at least 6 weeks before date for filing of the Trial Note of Issue)*. _____

or

(b) **Medicare Secondary Payor Plaintiffs** shall provide proof that the **MSPRC** has been advised of the action by *(Must be at least 20 weeks before date for filing of the Trial Note of Issue)*. _____

and it is further Stipulated and Ordered that

- (17) A **Trial Note of Issue and Certificate of Readiness**, together with a copy of this **Preliminary Conference Stipulation and Order**, an **Affirmation** stating that the terms and conditions of this **Preliminary Conference Stipulation and Order** have been complied with, and an **Affidavit of Service** of the same upon the other parties shall be filed by Plaintiff on or before
(Must be within fifteen (15) months of the date of the filing of the Notice of Medical, Dental or Podiatric Malpractice Action)

*(The Court will schedule a **Pre-Trial Conference** for the purpose of scheduling the Trial and a **Mandatory Settlement Conference** pursuant to CPLR 3409 following the filing of the Trial Note of Issue.)*

- (18) Any **Dispositive Motion(s)** pursuant to CPLR §§ 3211 or 3212 shall be filed with the Court no later than *(Must be within sixty (60) days of the date for filing of the Trial Note of Issue)*.

Expert Disclosure shall be provided by Plaintiff(s) **90 days before Trial**

Expert Disclosure shall be provided by Defendant(s). **60 days before Trial**

and it is further Stipulated and Ordered that

- (19) Should any discovery disputes arise, **prior** to making a Motion pursuant to CPLR §§ 3042, 3124 and/or 3126, the parties shall (a) comply with the good faith requirements of 22 NYCRR § 202.7 and (b) the parties shall contact the Court’s Law Clerk, Thomas L. Bell, Esq., and conclude a Conference with the Law Clerk in an attempt to resolve any such issues;
- (20) The failure of a party to prepare or timely share any of the documents required under this stipulation shall warrant a review of the conduct of that party and/or that party's attorney pursuant to 22 NYCRR Part 130;
- (21) **Any failure to comply with any of the directives in this stipulation and order may result in the imposition of costs or sanctions or other action authorized by rule or law, including preclusion, or other sanctions as provided for in CPLR § 3126;**
- (22) **A party or party’s attorney must appear in person at all Conferences scheduled with the Court or the Court’s Law Clerk. Any failure to appear at any scheduled Conference may be deemed a default by the Court pursuant to 22 NYCRR § 202.27. The failure of a plaintiff to appear may result in the dismissal of their action; the failure of a defendant to appear may result in the granting of a judgment by default against that defendant; and the failure of all parties to appear may result in such other order as appears just.**
- (23) The parties shall ensure that a **Stipulation of Discontinuance** shall be promptly filed if the case settles before the next appearance before the Court;

and it is further Stipulated and Ordered that *(Print additional directives)*:

(24)

*

Attorney for Plaintiff

*

Attorney for Defendant

*

Attorney for Defendant

*

Attorney for Defendant

So ORDERED.

Dated: _____

Hon. Thomas D. Buchanan, J.S.C.