

**SUMMARY JURY TRIAL RULES
WESTCHESTER COUNTY**

Hon Joan B. Lefkowitz, J.S.C.
Part Clerk: Amanda Hall amhall@nycourts.gov
Principal Court Attorney: Joseph Fogarty (914) 824-5422

1. Before a summary jury trial is scheduled the parties must appear in the Settlement Conference Part (Lefkowitz, J.).
2. In the Settlement Conference Part the parties will sign a stipulation (form attached) in which they agree to settle the matter by conducting a summary jury trial. In the stipulation the parties will agree to a date by which they shall exchange proposed exhibits and the court will give them a date to return and conduct an evidentiary hearing. The parties, if they so chose, may also execute a high/low stipulation at that time (form attached).
3. At the evidentiary hearing the parties shall submit an evidentiary stipulation (form attached) in which they agree upon the witnesses to be called and the exhibits which will be presented to the jury. If there is an objection to the admissibility of evidence the objection will be ruled upon the judge presiding in the Settlement Conference Part (Lefkowitz, J.) . At the conclusion of the evidentiary hearing the parties will be given a trial date at which time the case will be assigned to an IAS judge who will conduct the summary jury trial.
4. Please read the attached stipulations for specific requirements in preparing cases for summary jury trial.
- 5, Questions may be directed to Joseph P. Fogarty, Principal Court Attorney to Justice Joan B. Lefkowitz, at jfogarty@nycourts.gov.

SUPREME COURT : STATE OF NEW YORK
COUNTY OF WESTCHESTER

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Plaintiff(s),

-against-

SUMMARY JURY TRIAL

STIPULATION & ORDER

Defendant(s).

Index No.

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IT IS HEREBY STIPULATED AND AGREED that the parties to this action, by their respective attorneys, that this action shall be resolved by summary jury trial as provided herein; and it is further

STIPULATED AND AGREED as follows:

1. The parties shall be bound by the summary jury trial verdict unless the parties have also executed a "High/Low Binding Stipulation" in which event the plaintiff's recovery can be no more than the high parameter and no less than the low parameter, as agreed.

2. The summary jury trial shall be on the issue of (initial appropriate response):
- _____ Damages only (Defendant concedes liability).
 - _____ Liability only (Parties agree that if defendant found liable damages awarded shall be _____).
 - _____ Liability and Damages.

3. The parties shall exchange proposed exhibits on or before _____ . The failure to timely exchange the exhibits shall be grounds for the court vacating this stipulation and order.

4. All exhibits shall be agreed upon by the parties prior to assignment to the Trial Ready Part. All exhibits will be pre-marked prior to trial and shall be entered into evidence and submitted directly to the jury. The parties shall use their best efforts to resolve disputes as to the admissibility of an exhibit. In the event the parties cannot resolve the dispute then the issue shall be ruled upon by the justice presiding in the Settlement Conference Part.

5. Each party shall call no more than two witnesses at trial.

6. Medical evidence shall be submitted by video testimony or in documentary form including but not limited to medical records, medical test results and expert medical reports. Medical evidence, except expert reports, need not be certified or affirmed.

7. The presentation of a party's case may include an opening statement, testimony from witnesses, reading from deposition transcripts and from medical records (provided the transcript and records are also presented as an exhibit), and summation. In addition, counsel may use charts, diagrams, models, pictures and other images for demonstration purposes.

8. The parties shall each have no more than 90 minutes to present their respective cases, including opening and closing statements.

9. Upon the jury's verdict no judgment will be entered. Rather, the parties will execute and exchange the appropriate releases and stipulations of discontinuance within thirty (30) days of the verdict. Payment of awards, if any, will be made within twenty-one (21) days of receipt of the release and stipulation of discontinuance pursuant to the CPLR.

10. The parties hereby withdraw any pending motions.

11. The parties waive their right to make post-trial motions.

12. The parties waive their right to appeal the verdict or any court rulings made after execution of the stipulation.

13. Counsel shall appear in the Settlement Conference Part, Courtroom 1600, Westchester County Supreme Court, 111 Martin Luther King Boulevard, White Plains, New York on _____ at 9:15 a.m.

At that time the parties shall report to the court that they have exchanged the proposed exhibits, and they shall report in detail on any objection to the admissibility of evidence which they have not resolved. The report shall include the nature of the evidence offered and the reason, including appropriate citations, that the proposed evidence should be excluded. If the parties raise no evidentiary issues the Settlement Conference Part shall schedule the matter for a date in the Trial Ready Part on which date the parties shall be ready to commence the summary jury trial. In the event the parties are unable to resolve the evidentiary dispute then the Settlement Conference

Part will hear the matter and make the appropriate evidentiary rulings, or vacate this stipulation and order, in which event the parties shall no longer have the right to a summary jury trial.

Also, on that date the parties shall advise the court which Pattern Jury Instructions they will request at trial. Any objections to a requested charge shall be ruled upon by the trial judge.

Dated: White Plains, New York

Attorney(s) for Plaintiff

Attorney(s) for Defendant

Dated: White Plains, New York

SO ORDERED:

HON. JOAN B. LEFKOWITZ, J.S.C.

SUPREME COURT : STATE OF NEW YORK
COUNTY OF WESTCHESTER

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SUMMARY JURY TRIAL

Plaintiff(s),

HIGH/LOW PARAMETERS

-against-

STIPULATION

Defendant(s).

Index No.

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The parties to this action, by their respective attorneys, HEREBY STIPULATE AND AGREE that:

1. They will resolve their dispute by summary jury trial and have executed a Summary Jury Trial Stipulation.

2. They will be bound by the jury verdict unless the verdict is less than or greater than the parameters set forth herein.

3. In the event the jury verdict is less than \$ _____, then the plaintiff shall recover from the defendant the sum of \$ _____.

4. In the event the jury verdict is greater than \$ _____, then the plaintiff shall recover from the defendant the sum of \$ _____.

Dated: White Plains, New York

Attorney for Plaintiff(s)

Attorney for Defendant(s)

SUPREME COURT : STATE OF NEW YORK
COUNTY OF WESTCHESTER

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SUMMARY JURY TRIAL

Plaintiff(s),

STIPULATION & ORDER

-against-

EVIDENCE

Defendant(s).

Index No.

-----X

The parties to this action, by their respective attorneys, HEREBY STIPULATE AND AGREE that:

1. The plaintiff(s) will call the following witness(es):

- a. _____
- b. _____

2. The defendant will call the following witness(es)

- a. _____
- b. _____

3. The following exhibits are marked and will be entered into evidence:

- A _____
- B _____
- C _____
- D _____
- E _____
- F _____
- G _____
- H _____
- I _____
- J _____
- K _____

4. The parties shall prepare and distribute a package of all marked exhibits to the trial court and to each juror.

11. The names addresses and phone numbers of trial counsel are:

a. Plaintiff(s): _____

b. Defendant(s): _____

Dated:

Attorney for Plaintiff(s)

Attorney for Defendant(s)

Dated: White Plains, NY

SO ORDERED:

HON. JOAN B. LEFKOWITZ, J.S.C.