

RULES OF
HON. THOMAS A. STANDER
SUPREME COURT JUSTICE



Honorable Thomas A. Stander

Hall of Justice
99 Exchange Boulevard
Rochester, New York 14614

Principal Law Clerk: Sherry E. Vile, Esq.
585-371-3712
svile@nycourts.gov

Secretary: Roberta Wagner
585-371-3755
rwagner@nycourts.gov

Court Clerk: Jennifer Roth
585-371-3669
jroth@nycourts.gov

RULES OF JUSTICE THOMAS A. STANDER SUPREME COURT

All of the following Rules are applicable when appearing before the Honorable Thomas A. Stander, Justice of the Supreme Court, Room 420, Hall of Justice, Rochester, New York.

I GENERAL RULES

Rule 1. Appearances by Counsel with Knowledge and Authority. Counsel who appear in the Court must be fully familiar with the case in regard to which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients. Failure to comply with this rule will be regarded as a default and dealt with appropriately. (See Rule 12) It is important that counsel be on time for all scheduled appearances.

Rule 2. Settlements and Discontinuances. If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the Court by submission of a copy of the stipulation or by a letter, telephone or email. Filing a stipulation of discontinuance with the County Clerk is required by Law but does not suffice as notice to chambers.

Rule 3. Alternate Dispute Resolution (ADR). At any stage of the matter, the Court may direct a mediator for the purpose of mediating a resolution of all or some of the issues presented in the litigation.

Rule 4. Fax and E-mail

Rule 4(a). Papers by Fax. The Court does not accept papers of any sort by fax unless approved by the Court in advance in a particular case. All papers allowed to be submitted by fax must be followed by timely submission of the originals.

Rule 4(b). Correspondence by e-mail. The Court may permit counsel to communicate with the Court and each other by e-mail. In fact, the Court, in its discretion, may require information be provided electronically. Please note that e-

mail may only be used to provide information, the Court does not, and will not respond to e-mail.

Rule 5. Information on Cases. Information on scheduled Court appearances or other case activity can be obtained from the Court Clerk or Chambers. Motion Term Calendars of the Court are published on the return date in The Daily Record and also available on line.

<http://www.courts.state.ny.us/courts/7jd/Monroe/calendars.shtml>.

Rule 6. Answering Calendars. A Pre-Note Calendar and Note of Issue Calendar for pending actions is held at regular intervals and is published in The Daily Record in advance of the date of the Calendar Call. The attorney trying the case must answer the Note of Issue Calendar in person as a trial date will likely be set. A person with knowledge of the status of the case (and with the authority to agree to a Scheduling Order) must answer the Pre-Note Calendar call in person.¹

¹ Cases Marked Off the Calendar. All cases that have been “marked off” or “stricken” from the Court’s calendar are subject to §3404 of the CPLR.

II CONFERENCES

Rule 7. Conference: Requests. A Conference will generally be promptly scheduled upon a request of counsel (either by contacting chambers on a case assigned to Justice Stander or by the filing of a RJI which requests a conference). A Conference Letter may be sent by the Court scheduling the conference or following the scheduling of a conference which occurs by phone. Counsel in receipt of the Conference Letter must comply with the requirements set forth therein. Appendix A - Conference Letter.

Rule 8. Conference: Agenda. At any Court conference counsel for all parties shall be prepared to discuss (i) resolution of the case, in whole or in part, (ii) discovery and any other issues to be discussed at the conference and (iii) the use of Alternate Dispute Resolution to resolve some or all of the issues in the litigation. Counsel shall make a good faith effort to reach agreement on these matters at or in advance of the conference.

Rule 9. Conference: Outstanding Motions. Counsel must be prepared to discuss at conferences any motions that have been submitted and are outstanding.

Rule 10. Submission of Information. At the Conference counsel shall provide the Court with the following: (i) a copy of all pleadings which shall show a complete caption, including the index number; (ii) the name, address, telephone and fax numbers of all counsel; (iii) a brief written statement (limited to two pages) as to their client's contentions and any anticipated matters of law in dispute; (iv) a statement as to what motions, if any, are pending; and (v) copies of any decisions previously rendered in the case.

Rule 11. Discovery Schedule. The Conference will generally result in the issuance by the Court of a Scheduling Order. Appendix B - Scheduling Order. Where appropriate, the order may also contain specific provisions for early means of disposition of the case, such as directions for submission to a mediation or Alternative Dispute Resolution Program.

Rule 12. Non-Appearance at a Conference. The failure of counsel to appear for a conference shall be dealt with by an order directing dismissal, the striking of an answer and an inquest or direction for judgment, or other appropriate sanction. See 22 NYCRR §130-2.1 and §202.27.

Rule 13. Adherence to Discovery Schedule. Parties shall strictly comply with discovery obligations and the dates set forth in all Scheduling Orders. Any request for an extension or amendment of the Scheduling Order must be made by a letter request to the Court on notice to opposing counsel at least ten (10) days in advance of the date to be extended and must be accompanied by a proposed Amended Scheduling Order.

Non-compliance with a Scheduling Order may have the following consequences:

if any party fails to produce documents in timely fashion, an appropriate sanction may be imposed against that party pursuant to CPLR §3126;

if a party seeking an examination before trial fails to proceed with it on the date or by the deadline fixed, that party may be held to have waived it;

if a party fails to submit to an examination as scheduled, either that party may be precluded from introducing testimony at trial or another sanction may be imposed;

if a party seeks documents as a condition precedent to a deposition and the documents are not produced by the date fixed, the party seeking disclosure may ask the Court to intervene on penalty of waiving the deposition.

Rule 14. Disclosure/Discovery Disputes. Counsel must consult with one another in a good faith effort to resolve all disputes about disclosure. See 22 NYCRR §202.7. If counsel are unable to resolve a disclosure dispute in this fashion, the aggrieved party may have the right to bring a formal motion to compel or for sanctions or other relief. If opposed, such motions may, at the discretion of the Court, be held in conference. Dispositive motions, such as motions for summary judgment or to dismiss, will not be entertained by the Court as cross-motions for motions for discovery.

Rule 15. Adjournments of Conferences. Counsel requesting an adjournment of a Conference should contact Chambers and indicate the position of all other counsel regarding the requested adjournment. The adjournment of conferences is at the discretion of the Court and may be permitted for good cause shown. Parties should be careful not to unnecessarily request the adjournment of a Note of Issue Pre-Trial conference as the matter may be set for trial before the adjourned date of the conference.

III MOTIONS

Rule 16. Motion Procedures

Rule 16(a). Form of Motion Papers. So as to facilitate the framing of a decision and order, the movant must specify, clearly and comprehensively, in the notice of motion, order to show, or in a concluding section of a memorandum of law, the exact relief counsel seeks.

Motion papers must be submitted with the return date blank; the Court will advise movant by phone of the assigned return date.

The motion papers should be bound in a backing, indicating the law firm name, with all submissions from a party being bound in the same color backing. Separate Affidavits shall be bound separately and should not be “buried” in exhibits or a memorandum of law.

Motion papers shall comply with Part 130 of the Rules of the Chief Administrator, be double-spaced and contain print no smaller than ten-point, on 8 ½ x 11 inch paper, bearing margins no smaller than one inch. CPLR Rule 2101; 22 NYCRR §202.5(a). The print size of footnotes shall be no smaller than nine-point.

Counsel must attach copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion (especially on motions pursuant to CPLR §3211 and §3212).

Counsel must use tabs when submitting papers containing exhibits and exhibits must be legible. If a document to be annexed to an affidavit or affirmation is very voluminous and only discrete portions are relevant to the motion, counsel shall attach excerpts and submit the full exhibit separately.

If Exhibits are voluminous they should be bound separately and all parties shall, where possible, refer to the Exhibits

already submitted. All exhibits shall be legible. Documents in a foreign language shall be properly translated (CPLR Rule 2101[b]).

Whenever reliance is placed upon a decision or other authority not readily available to this Court, a copy of the case or of pertinent portions of the authority shall be submitted with the motion papers.

Rule 16(b). Proposed Orders. When appropriate, proposed orders should be submitted with motions, e.g., motions to withdraw, *pro hoc vice* admissions, open commissions, etc. No proposed order should be submitted with dispositive motions.

Rule 16©. Adjournment of Motions. Adjournment of a motion is allowed on consent of all the parties and with the permission of the Court. The Court has the discretion to grant an adjournment for just cause. Upon the granting of an adjournment of a motion the Court does not allow the filing of any additional papers without the permission of the Court. If no opposition papers have yet been submitted, or, if additional papers are specifically allowed by the Court, any such opposition papers are required to be submitted ten (10) days prior to the adjourned return date and reply papers are to be submitted seven (7) days prior to the adjourned return date.

Rule 17. Length of Papers. Unless otherwise permitted by the Court for good cause, briefs or memoranda of law are limited to 25 pages each. Affidavits and affirmations shall be reasonable in length.

Rule 18. Sur-Reply and Post-Submission Papers. Counsel are reminded that the CPLR does not provide for sur-reply papers, however denominated. Nor is the presentation of papers or letters to the Court after submission or oral argument of a motion permitted. Absent express permission in advance, such materials will be returned unread. Opposing counsel who receives a copy of materials submitted in violation of this Rule should not respond in kind.

Rule 19. Motions - Discovery, Pro Hoc Vice, Reargue/Renew

Rule 19(a). Discovery

(1) Prior to the making or filing of any non-dispositive post-RJI motions (i.e. after the assignment of the matter to Justice Stander), counsel for the moving party may, where appropriate, advise the Court on notice to opposing counsel of the issue(s) in dispute and

request a conference or telephone conference. This rule shall not apply to motions to be relieved as counsel, for pro hoc vice admission or motions to reargue/renew.

(2) Upon receipt of the request, the Court may schedule a conference or telephone conference with counsel. Counsel fully familiar with the matter and with authority to bind their client must be available to participate in the conference. The unavailability of counsel for the scheduled conference, except for good cause shown, may result in granting of the application without opposition and/or the imposition of sanctions.

(3) If the matter can be resolved during the conference or telephone conference, an order consistent with such resolution may be issued and counsel will be directed to forward a letter confirming the resolution to be “so ordered”.

(4) If the matter cannot be resolved, the parties will set a briefing schedule for the motion which shall be approved by the Court. Except for good cause shown, the failure to comply with the briefing schedule may result in the submission of the motion unopposed or the dismissal of the motion, as may be appropriate.

(5) Nothing herein shall be construed to bar counsel from making any motion deemed appropriate to best represent a party’s rights. However, in order to permit the parties the opportunity to resolve issues before motion practice ensues and for the Court to control its calendar, in the context of the discovery and trial schedule, pre-motion conferences in accordance herewith are encouraged.

Rule 19(b). Pro Hoc Vice. Pursuant to the Rules of the Court of Appeals, an attorney in good standing from another state, territory, district or foreign country may be admitted pro hoc vice in the discretion of this Court (22 NYCRR §520.11). A motion for pro hoc vice admission must be made to the Court. The application shall include affidavits in support of the motion which comply with the Rules of the Supreme Court, Appellate Division, Fourth Department (22 NYCRR §§1022.9 and 1000.13[1]).

After such motion is submitted, if there is no opposition to the request then counsel may submit a stipulated Consent Order prior to the return date. An Order may not be granted without the affidavits required by the Court Rules. Any Order from the motion should reflect the necessary representations required by the Court Rules. A proposed form for a Pro Hoc Vice Order is attached. *Appendix C - Pro Hoc Vice Order.*

Rule 19(c) Motions to Reargue/Renew Motions to reargue/ renew are, by order of the Court, always on submission. No appearance of counsel is required or permitted.

Rule 20. Temporary Restraining Orders. The Court will not generally issue a temporary restraining order on substantive issues unless the applicant has given notice to the opposing parties sufficient to permit them an opportunity to appear and contest the application. Therefore upon receipt of a TRO request, the Court may set a conference with both counsel as soon as possible to address the application. (This conference procedure will generally not be applied to Mental Hygiene Law applications and Article 81 proceedings.)

Rule 21. Courtesy Copies. Courtesy copies or extra copies of motion papers and memos of law should not be submitted unless requested by the Court. Submission of an “extra copy” by e-mail may be requested by the Court. The parties should be prepared to promptly comply with such a request.

Rule 22. Oral Argument. All motions shall be orally argued at the place and time assigned by the Court and noted in the motion papers, unless otherwise directed by the Court. The Motion Calendars of the Court are published on the day of the return date in The Daily Record. No appearance for oral argument is required when the Court approves the waiver of oral argument; the Court is notified in advance of a consent Order; it is an uncontested motion; the motion is withdrawn; or the motion is to reargue or renew a prior motion. Oral arguments of contested Motions shall be limited to **seven minutes (7)** per side unless otherwise directed by the Court.

Rule 23. Motion Decisions and Orders. On an **unopposed motion**, counsel must submit an order, with an affidavit of service of the motion, in accordance with correspondence (Fax) sent by the Court. Counsel must submit an order on any **motion resolved by consent** of counsel. If such orders are not timely received, the motion will be considered withdrawn, without prejudice. When the Court issues a **Bench Decision** on a motion, counsel will be directed attach a transcript or copy of the written Bench Decision, and reference the transcript or written Bench Decision in the Order. When the Court **reserves on a motion decision**, counsel must provide the Court with a copy of all memorandum of law formatted for Microsoft Word or WordPerfect and attached to an e-mail directed to the Court. No other submissions on reserved decisions will be accepted unless specifically directed by the Court. Written decisions of the Court not issued from the bench will generally be filed by the Court directly in the Monroe County Clerk’s Office. Counsel is notified of these decisions electronically.

Rule 24 - Intentionally left blank

IV TRIALS

Rule 25. Trial Procedures

Rule 25a. Trial Schedule. The Courts Trial Ready Calendar is published in the Daily Record on each Friday that the Court is in session. Matters will generally be tried in the order they appear on the Trial Ready Calendar but will be scheduled at the discretion of the Court. The Court does not have a backlog of cases and Counsel should be aware that their case will be tried very soon after the filing of a Note of Issue and Statement of Readiness.

Counsel will be expected to be ready to proceed either to select a jury or to begin presentation of proof upon a call from the Court scheduling a trial date. (Generally the Court will try to conference a case before scheduling the case for trial. However this is not always possible and Counsel should be aware that once they file a Note of Issue they should be prepared to go to trial.)

Once a trial date is set (either by a phone call or conference), counsel are immediately to determine the availability of witnesses. If, for any reason, counsel are not prepared to proceed on the scheduled date, the Court is to be notified within 48 hours of the date on which counsel are given the trial date or, in extraordinary circumstances, as soon as reasonably practicable. Failure of counsel to provide such notification will be deemed a waiver of any application to adjourn the trial because of the unavailability of a witness. Witnesses are to be scheduled so that all trial time is completely utilized.

Rule 25b. Trial Order. The Court will generally issue a Trial Order establishing the trial date as a date certain and setting forth the Rules of the Court specific to the Trial. Counsel is urged to read the Trial Order carefully and completely. Appendix D - Trial Order.

Rule 25c. Jury Selection. The jury shall be selected in accordance with procedures set forth in the Court's Jury Selection Process. Appendix E - Jury Selection Process.

Rule 25d. Trial Times. (The Court does not try cases on Fridays) Unless otherwise directed by the Court, trials will commence each Court day promptly at 10:00 A.M. and will proceed on a day-to-day basis until approximately 4:30- 5 P.M., Monday through Thursday. The Court holds Motion Term on Friday and therefore does not

start (except for Jury Selection) or continue trials on Friday (except for Jury deliberation). Failure of counsel to attend the trial at the time scheduled will constitute a waiver of the right of that attorney and his or her client to participate in the trial for the period of counsel's absence.

Rule 26. Settlement Conference. It is the Courts desire to hold a Settlement Conference (Note of Issue Conference) prior to scheduling a Trial. In preparation for the Settlement Conference, counsel shall comply with the requirements set forth in the Trial Ready Letter and Memorandum. Appendix F - Trial Ready Letter and Trial Preparation Memorandum. Counsel is advised to read the Trial Order at Appendix D prior to and in preparation for the settlement conference. Also Counsel for all parties shall furnish the Court with a realistic estimate of the length of the trial.

Rule 27. Motions in Limine. At least seven (7) days prior to trial, counsel shall notify opposing counsel of any intended motions in limine and provide opposing counsel with a copy of such motion. At least four (4) days prior to the earlier of trial or jury selection, the parties shall submit all motions in limine, and responses, except for those not reasonably anticipated in advance. No additional reply papers will be allowed. Such motions shall be on submission unless otherwise directed by the Court. The moving and opposition papers on such motions shall be no longer than 6 pages and these papers shall comply with the limitations as to print size and margins set forth in Rule 16a above.

Rule 28. Pre-Marking of Exhibits. Counsel for the parties shall consult prior to trial and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. With the Court Reporter, each side shall then mark its exhibits with plaintiff using numbers for its exhibits and defendant letters. If the exhibits are voluminous, the attorneys should consult with the Court's Part Clerk for another method of marking the exhibits (double and triplicate letters are strongly discouraged). The parties shall thereafter stipulate to those exhibits which may be received into evidence and the Court Reporter shall mark those items as received by stipulation.

Whenever a subject matter will reasonably require itemization, computation or illustration, counsel shall prepare such diagrams, photographs or other similar exhibits as may reasonably be necessary for a clear presentation of the subject matter.

Rule 29. Identification of Deposition Testimony. Counsel for the parties shall consult prior to trial and shall in good faith attempt to agree upon the portions of deposition testimony to be offered into evidence without objection. The parties shall delete from the testimony to be read questions and answers that are irrelevant to the point for which the

testimony is offered. Prior to trial, each party shall submit to the Court a courtesy copy of any deposition testimony they intend to read at trial.

Rule 30. Pretrial Conference. The Court will set a pretrial conference immediately prior to commencement of the jury pick or trial. Prior to the conference, counsel shall make a good faith effort to identify issues not in contention and resolve all disputed questions without need for Court intervention. At the conference, counsel shall be prepared to discuss all matters as to which there is disagreement between the parties, including those identified in Rules 27-29, evidentiary issues, witness timing issues, and the possibility of settlement. At or before the conference, the Court may require the parties to prepare a written stipulation of undisputed facts.

Rule 31. Pre-Trial Memoranda, Exhibit Book, and P.J.I. Charge. Counsel shall submit pre-trial memoranda at the Pre-Trial Conference or at the time required by the Court's Trial Order. No memoranda in response need be submitted.

In a jury trial, counsel must, pursuant to the Trial Order, and prior to jury selection, provide the Court with case-specific paragraph references to **Pattern Jury Instructions**, as well as any requested jury verdict **interrogatories**. The failure to do so may waive your right to object to the Court's charge to the jury until after it is presented. (The Court is aware that additional or different charges may be necessary based on the developments or testimony at trial. On this basis, a supplemental request to charge will be permitted.) The PJI charge and the jury verdict sheet shall be provided to the Court in hard copy written form and attached to an e-mail directed to the Court at tstander@nycourts.gov (Microsoft Word or WordPerfect format).

In preparing the request to charge, counsel should be aware that the Court will use an opening charge to the jury which will include information and directions to the jury as set forth in the Pattern Jury Instructions. The Court will also generally charge paragraphs 1:20, 2:325; 1:40; 1:37; 1:38; 1:25; 1:21; 1:91; 1:22; 1:90; 1:70; when appropriate.

In a non-jury trial, counsel shall at the pre-trial conference, submit a book of trial exhibits for the Court's use.

Rule 32. Scheduling of Witnesses/Doctors. At the pretrial conference immediately before the trial, each party shall identify in writing for the Court and the other parties the witnesses it intends to call, the order in which they shall testify and the estimated length of their testimony.

If the matter involves the testimony of a doctor or doctors, the parties must video tape the doctor's testimony in advance of trial or secure the in person testimony of the doctor. If the trial has been scheduled more that 30 days after the Note of Issue is filed, the matter will NOT be adjournment because of the unavailability of a doctor.

Rule 33. Preclusion. Except for good cause shown, no party shall present the testimony of a witness, portions of deposition testimony, or exhibits that were not identified as provided in Rules 28, 29, and 31 hereof and not identified during the course of disclosure in response to a relevant discovery demand of a party or an order of the Court.

Rule 34. Summary Jury Trial Rules. The Court's rules for the conduct of a Summary Jury Trial are as set forth in the Court's Summary Jury Trial Order (*Appendix G*):

APPENDIX

APPENDIX A.....	Conference Letter
APPENDIX B.....	Scheduling Order
APPENDIX C.....	Pro Hoc Vice Order
APPENDIX D.....	Trial Order
APPENDIX E.....	Jury Selection Process
APPENDIX F.....	Trial Ready Letter and Trial Preparation Memorandum
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APPENDIX G.....	Summary Jury Trial Order
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APPENDIX A

Conference Letter

Date

RE:

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Dear Counsel:

The above-referenced action was assigned to Supreme Court Justice Thomas A. Stander either by the filing of an RJI or by the submission of a motion. **The Court has scheduled a preliminary telephone conference for _____, 20__ at _____ a.m.** The Court will initiate the phone call. Please be sure the Court can easily reach you by phone (i.e., cell number where necessary) at the time set for the conference. Your failure to be available at this time may be cause for default in the action.

Adjournments of this conference are discouraged. If you have any questions or wish to give the Court a phone number where we can more easily reach you, please contact my Chambers.

Copies of all pleadings shall be provided to the Court prior to the time of the conference. A short description of the facts and the parties' contention may also be submitted. At the conference, the Court will generally discuss settlement possibilities, issue a Scheduling Order, address the use of alternative dispute resolution, discuss the handling of any future motions, and may schedule future conferences for case control.

Very truly yours,

Honorable Thomas A. Stander
Supreme Court Justice

TAS/RBw

APPENDIX C

STATE OF NEW YORK
SUPREME COURT

COUNTY OF MONROE

Plaintiff,

ORDER

-vs-

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Defendant.

Upon the Application to Admit Counsel Pro Hoc Vice, dated _____, 20__, and the affidavits annexed thereto of _____, Esq., sworn to _____, 20__, and good cause shown, pursuant to the Rules of the Court of Appeals, Part 520, §520.11, and there being no opposition to this motion, it is hereby

ORDERED, that the application requesting the admission of _____, Esq. pro hoc vice as counsel with respect to the above entitled action is hereby GRANTED; it is further

ORDERED, that such counsel shall comply with the New York professional responsibility requirements and disciplinary rules and shall be subject to the jurisdiction of the New York Courts for any violation; it is further

ORDERED, that _____, Esq. is hereby authorized to appear and participate before this Court in this action on behalf of _____; and it is further

ORDERED, that [out of town atty] shall be associated with [NY firm & atty] _____, _____, Esq. of counsel; [NY firm] shall be the attorney of record in this matter.

Dated:

ENTER:

Hon. Thomas A. Stander
Supreme Court Justice

APPENDIX D

PRESENT: THE HONORABLE THOMAS A. STANDER
Justice of the Supreme Court

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY

**JURY
TRIAL ORDER**

-against-

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The parties having indicated their readiness for a trial by jury, it is now hereby **ORDERED:**

1. Trial Date:

That selection of the Jury in the above-captioned matter shall be held on Friday the _____ day of _____, 20__ at 10:00 a.m.

Trial of this matter shall commence at 10:00 a.m. on Monday, the _____ day of _____, 20__.

When a matter has been set for trial pursuant to a Trial Order, it is for all purposes a DAY CERTAIN and will not be adjourned or postponed without the written consent of the Court.

Counsel is advised to report to Justice Stander's Chambers (Room 420, Hall of Justice, Rochester, New York) for a **Pre-trial Conference**, one-half hour prior to the start of jury selection/trial. The purpose of the conference is to give the parties a final opportunity to settle the

matter, to set the trial schedule and to discuss any scheduling problems, to review any anticipated evidentiary problems, and to entertain any pre-trial applications.

Please be advised that the Court holds Special Term on Fridays and, therefore, does not start (except for jury selection) or continue trials on Friday.

Parties are advised that it is not necessary to answer any calendar calls on the status of the case up to and through the date of trial unless the matter has settled.

2. Pleading/Prior Orders

Four (4) days prior to jury selection, a copy of all pleadings, including a copy of the Complaint and Answer, the Demand and Bill of Particulars, and any other relevant discovery and/or trial-related orders of the Court shall be submitted by Plaintiff.

3. Witnesses/ Doctors Testimony

If not disclosed previously, **four (4) days prior to jury selection**, each party shall provide the Court and opposing counsel, a **list of all witnesses** whom the party expects to call. The list shall identify those whom the party expects to call in person and those who shall be called through deposition. A courtesy copy of such deposition testimony for the Court is required. As to any experts, the witness list shall also provide the information required by CPLR §3101(d).

If the matter involves the **testimony of a doctor or doctors**, the parties must video tape the doctor's testimony in advance of trial or secure the in person testimony of the doctor. If the trial has been scheduled more that 30 days after the Note of Issue was filed, the matter will NOT be adjourned because of the unavailability of a doctor.

4. Exhibits:

OPTIONAL: [On the _____ day of _____ 20__ at _____ a.m./p.m. and prior to the start of trial,] **OR [Prior to, or immediately following Jury Selection,]** the parties shall, with the Court

Reporter, mark all exhibits for identification (numbers for plaintiff; letters for defendant); and shall, at the time of trial, submit to the Court a list of all such exhibits. All parties are herein ordered to consult with each other and, to the extent possible, enter into a stipulation governing the authenticity and admissibility of exhibits.

Whenever a subject matter will reasonably require itemization, computation or illustration, counsel may prepare such diagrams, photographs or other similar exhibits as may reasonably be necessary for a clear presentation of the subject matter. The week before trial, counsel should make known to the Court any requests for special equipment (e.g., blackboard, shadow box, easel, markers, audio-video equipment.) The Court will not be responsible for equipment not timely requested.

If the parties can agree on facts or matters not in dispute, they should submit an appropriate stipulation to the Court at the time of trial.

5. Trial Memorandum of Law:

Four (4) days prior to jury selection, each party shall submit a trial **memorandum of law**. The memorandum shall be brief (less than five [5] pages unless otherwise allowed by the Court) but comprehensive, and must address each question of law that the party expects to arise at trial including, but not limited to, the elements of proof necessary for each cause of action. Each party shall provide opposing counsel a copy of the Trial Memorandum. An answer or reply memorandum is not required but is permissible.

6. Requests to Charge:

Four (4) days prior to jury selection, counsel must provide the Court with case-specific paragraph references to **Pattern Jury Instructions**, as well as any requested jury verdict **interrogatories**. The PJI charge and the jury verdict sheet shall be provided to the Court in written form and attached to an e-mail addressed to tstander@nycourts.gov (Microsoft Word or WordPerfect format).

Your failure to provide these items may waive your right to object to the Court's charge to the jury until after it is presented. (The Court is aware that additional or different charges may be necessary based on the developments or testimony at trial. On this basis, supplemental requests to charge will be permitted.)

In preparing the request to charge, counsel should be aware that the Court will use an opening charge to the jury which will include information and directions to the jury as set forth in the Pattern Jury Instructions. The Court will generally charge, either in the opening or closing charge, paragraphs 1:20; 1:21; 1:22; 1:24; 1:25; 1:27; 1:36; 1:37; 1:38; 1:39; 1:40; 1:41; 1:90; 1:91 and 1:97; when appropriate. You do not need to formally request that these paragraphs be charged.

7. Jury Questionnaire:

Generally Jury Questionnaires will, to the extent the Commissioner of Jurors has provided them to the jury panel, be used by the Court in the selection of the jury. These questionnaires will be provided just before jury selection unless Counsel has requested a longer period of review well in advance of trial. Also, upon prior application to the Court at least 10 days prior to jury selection, or upon the Court's own initiative, prospective jurors may be asked to complete a more detailed questionnaire supplied by the Court after consultation with the trial attorney.

8. Jury Selection /Time Limitation:

Except as set forth below, the Voir Dire will generally not be judicially supervised. The Court will commence the jury selection process with an introduction of the attorneys and the case to the jury pool. The identity of the parties and the list of possible witnesses may be made known to the Jury. The Jury pool will be advised that the Court Clerk is the Court's representative and that any questions regarding attorneys or jurors conduct should be reported to the Clerk. **Each side will be limited to 45 minutes** of questioning during Voir Dire unless the Court has specifically, in the presence of all counsel, set other time limitations.

9. Jury Selection Process: Struck Method / Non-Designated Alternates:

Unless otherwise ordered by the Court, the Jury shall be selected by the Voir Dire procedures known as the "Struck Method". Under the Struck Method, the panel selected is large enough so that

the number of cause-free prospective jurors is equal to the ultimate jury size desired (including alternates), plus the total number of peremptories that can be exercised by all parties. The attorneys then exercise their peremptory challenges by alternately striking names from a list of jurors until the number of jurors left equals six plus the number of alternates. If there are still too many jurors after everyone has exercised peremptories, the first eight names seated are selected to sit as the jury. The alternates will not be designated unless counsel has objected to non-designated alternates prior to jury selection. At the conclusion of the trial, and after the jury charge, six jurors will be randomly selected to deliberate. Any remaining juror(s) will be considered alternates and, at the discretion of the Court, be dismissed. A detailed description of the Struck Method Rules **is enclosed** for your review.

10. Limitations of Opening and Closing:

Counsel is advised that the Court will impose **a time limit of 15 minutes on each attorney for their opening and closing statements to the Jury.** Upon request, the time limit may be modified at the Pre-Trial Conference. The time limits will be strictly adhered to.

11. Motions - in limine; Summary Judgment

Unless otherwise specifically ordered by the Court, counsel shall, at least seven (7) days prior to trial, notify opposing counsel of any intended motions in limine and provide opposing counsel with a copy of such motion. At least four (4) days prior to the earlier of trial or jury selection, the parties shall submit all motions in limine, and responses.. No additional reply papers will be allowed. Such motions shall be on submission unless otherwise directed by the Court. The moving and opposition papers on such motions shall be no longer than 6 pages and these papers shall comply with the limitations as to print size and margins set forth in Rule 16a of the Court's Rules.

Unless otherwise specifically ordered by the Court, summary judgment motions may not be made more than thirty (30) days after the filing of the note of issue, except with leave of the Court on good cause shown

(Optional)

12. Conference Date

A conference on the matter will be held on _____, 20__ at _____ a.m. for the Court to review counsel's compliance with this Order, to discuss trial schedule and, possible settlement. Trial counsel must attend this conference.

Dated:

Rochester, New York

Thomas A. Stander, J.S.C.

APPENDIX E

THOMAS A. STANDER SUPREME COURT JUSTICE

JURY SELECTION STRUCK METHOD/NON-DESIGNATED ALTERNATES

(1) Unless otherwise ordered by the Court, selection of jurors shall be made from an initial panel of prospective jurors, who shall be seated randomly and who shall maintain the order of seating throughout the voir dire.

(2) Counsel first shall ask questions generally to the prospective jurors as a group to determine whether any prospective juror has knowledge of the subject matter, the parties, their attorneys or the prospective witnesses. A response from a juror that requires further elaboration may be the subject of further questioning of that juror by the Court (or, in the Court's discretion, by counsel) on an individual basis. Counsel may exercise challenges for cause at this time or in the event of newly discovered information, after questioning as set forth in (3) below.

(3) After the general questioning has been completed by the Court, in an action with one Plaintiff and one Defendant, counsel for the Plaintiff initially shall question the prospective jurors, followed by questioning by Defendant's counsel. Each counsel may be permitted to ask follow-up questions on newly revealed information. In cases with multiple parties, questioning shall be undertaken by counsel in the order in which the parties' names appear in the caption.

A challenge for cause shall be made by counsel to any party as soon as the reason therefor becomes apparent. At the end of the period, all challenges for cause to any prospective juror on the panel must have been exercised by respective counsel.

(4) After challenges for cause are exercised, the number of prospective jurors remaining shall be counted. If that number is less than the total number of jurors to be selected (including alternates) plus the maximum number of peremptory challenges allowed by the Court for all parties (such sum shall be referred to as the "jury panel number"), then additional prospective jurors shall be added until the number of prospective jurors not subject to challenge for cause equals the "jury panel number". Counsel for each party then shall question each replacement juror pursuant to the procedure set forth in paragraph 3.

(5) After all prospective jurors in the panel have been questioned, and all challenges for cause have been made, counsel for each party, one at a time beginning with counsel for the Plaintiff, shall then exercise allowable peremptory challenges by alternately striking a single juror's name from a list or ballot passed back and forth between or among counsel until all challenges are

exhausted or waived. In cases with multiple Plaintiffs and/or Defendants, peremptory challenges shall be exercised by counsel in the order in which the parties' names appear in the caption, unless following that order would, in the opinion of the Court, unduly favor a side. In that event, the Court, after consulting with the parties, shall specify the order in which the peremptory challenges shall be exercised in a manner that shall balance the interests of the parties.

An attorney who waives a challenge may not thereafter exercise a peremptory challenge. Any *Batson* or other objections shall be resolved by the Court before any of the struck jurors are dismissed.

(6) After all preemptory challenges have been made, the trial jurors (including non-designated alternates) then shall be selected in the order in which they have been seated from those prospective jurors remaining on the panel.

The Juror shall then be sworn and excused until the start of trial.

APPENDIX F

TRIAL READY LETTER

DATE

RE:

Index #

Case #

Dear Counsel:

A Note of Issue and Statement of Readiness has been filed on this case. When the Note of Issue is filed on a matter, this Court requires the parties and their attorneys to attend a Settlement Conference. **A Settlement Conference of this matter has been scheduled for , 20 at a.m.**

The purpose of the Settlement Conference is to clarify the issues and provide an opportunity for settlement. **Please note** that you and your clients (including the insurance adjuster with authority) **are required** to be present, in person, at this Settlement Conference (see attached Memorandum). Failure of attendance in person by any of the foregoing will result in a default of the offending party under §202.27 of the Uniform Rules.

If a disposition of the matter does not result from the Settlement Conference, a TRIAL ORDER will be issued setting Jury Selection for _____, _____ at ____ a.m. The Jury Trial shall commence (immediately after Jury Selection) on _____, _____ at 10 a.m.

Please read carefully the attached **Settlement Conference and Trial Preparation Memorandum** regarding your responsibilities in preparing for the conference and trial.

Very truly yours,

Thomas A. Stander
Supreme Court Justice

TAS/RBw
Enclosure

APPENDIX F-1

TRIAL PENDING LETTER

Date

RE:

Index #

Case #

Dear Counsel:

Please be advised that the above case is moving, or has moved, from the Trial Pending Calendar to the Trial Ready Calendar and/or has a Trial Date Set. As you prepare for your upcoming trial please be aware of the following information:

If counsel is involved in the "actual engagement" in another Court on the scheduled trial date, the Uniform Rules for the Engagement of Counsel will govern any requested trial postponements, and the Court reserves the right to receive an affidavit or affirmation, as provided by those rules. (McKinney's Revised 1986 NY Rules of Court, Section 125.1).

On the scheduled trial date, counsel is advised to report to Justice Stander's Chambers (Room 420) with clients one-half hour prior to the start of trial (i.e., 9:30 a.m. for a 10:00 a.m. trial; 1:30 p.m. for a 2:00 p.m. trial). The purpose of the conference is to discuss possible settlement, any scheduling problems, anticipated evidentiary problems, and for the Court to consider any pre-trial applications.

Please be advised that the Court holds Special Term on Fridays and, therefore, does not start or continue trials on Friday.

Proposed Finding of Facts and Conclusions of Law must be submitted at this final Pre-Trial Conference and prior to the commencement of this Matrimonial litigation. Any appropriate Memorandums of Law shall be submitted at this final Pre-Trial Conference held prior to commencement of trial. Also, the Court would appreciate counsel's effort to stipulate to the introduction of evidence and/or pre-marked exhibits to be presented at trial prior to the commencement of trial.]

I hope that the above information will allow for the smooth progress of your trial and assist the Court in its effort to provide plaintiffs and defendants with timely access to the trial court system.

Very truly yours,

Thomas A. Stander
Supreme Court Justice

TAS/RBw

JUSTICE STANDER - SETTLEMENT CONFERENCE

AND TRIAL PREPARATION MEMORANDUM

The following information is provided to you for your review when your case has been set for a Settlement Conference.

The purpose of the Settlement Conference is to clarify the issues, discuss trial procedure, and to provide an opportunity for settlement. Each counsel is encouraged to provide a brief (2 page) written statement as to the nature of their client's contentions with an indication of their demands/offer to date.

The Settlement Conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and any pro se litigants. (See NYCRR 202.27) The parties (this includes, if relevant, the representative of any insurance carrier) to the action *must* also be at the Conference in person (insurance carrier can be readily available by telephone) for the purpose of settling the matter, as well as for consultation on availability for trial. Only with the Court's prior approval may the client be available by phone and not be present in person.

If the matter does not settle at the Conference, a trial date may be set at this Conference or, as is discussed in the accompanying letter, at a later date upon a call from the Court Clerk. In setting a trial date counsel is advised that if they are involved in the "actual engagement" in another Court on the scheduled trial date, the Uniform Rules for the Engagement of Counsel will govern any requested trial postponements, and the Court reserves the right to receive an affidavit or affirmation, as provided by those rules. (McKinney's Revised 1986 NY Rules of Court, §125.1).

Though the Court will generally issue a Trial Order with detailed instructions regarding trial preparation, Counsel is advised that when a matter has been *set for trial* the following is required:

Once the matter has been scheduled for trial, counsel is advised to **report to Justice Stander's Chambers** (Room 420) one-half hour prior to the start of trial (i.e., 9:30 a.m. for a 10:00 a.m. trial; 1:30 p.m. for a 2:00 p.m. trial). The purpose of this *Pre-Trial Conference* is to set the trial schedule and discuss any scheduling problems, anticipated evidentiary problems, or pre-trial applications. The Pre-Trial Conference shall be attended by all trial counsel, their clients and any unrepresented (pro se) parties.

Unless otherwise ordered by the Court in the Trial Order, counsel must provide the Court with 1) case-specific paragraph references to **Pattern Jury Instructions**, as well as any requested jury verdict interrogatories at the Pre-Trial Conference; 2) **Pre-Trial Memorandums of Law** and the case pleading; 3) a stipulation to the introduction of evidence not in dispute. All exhibits to be presented at trial shall be pre-marked with the Court Reporter.

Please be advised that the Court holds Motion Term on **Fridays** and, therefore, does not start or continue trials on Friday (except for jury selection).

APPENDIX G

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

vs.

Plaintiff,

**SUMMARY
TRIAL ORDER**
Index #

Defendants.

HON. THOMAS A. STANDER

It is ORDERED, that following a stipulation by the parties in chambers, a **SUMMARY JURY TRIAL** of the issues of liability and damages is hereby scheduled as a Day Certain Trial before the **Honorable Thomas A. Stander**, at the Hall of Justice, 99 Exchange Boulevard, Rochester, New York 14614. The trial shall be conducted in accordance with this Order. It is therefore:

ORDERED, that:

I. Summary Trial Generally.

1. The Summary Jury Trial Jury Selection shall commence promptly on **9:30 a.m.** Counsel is directed to conference with the Court at **9:00 am on the morning of Trial.**
2. All parties, through their attorneys, must consent to conducting a Summary Jury Trial. Therefore, the Parties shall, prior to jury selection, sign a stipulation to conducting the Summary Jury Trial. The stipulation must not conflict in any way with these Summary Jury Trial Rules or any other directives from the Court. Any other or additional

terms agreed to by the parties must also be set forth in the Stipulation or in open court and approved by the Court.

II. Jury Selection

1. Counsel will conduct Jury Selection at **commencing at 9:30 am**. Each side shall be allowed 20 minutes of questioning and Jury Selection shall be completed **promptly**. The Attorneys will select six (6) jurors using the Struck Method. Each party is permitted two peremptory challenges. There will be no alternates.

OR

1. The Court will conduct jury selection. Counsel will be allowed to participate in jury selection by asking follow-up questions to the Court's inquiries of the jury. Counsel may submit a few proposed voir dire questions or concepts to the court in advance of the trial date for the Court to consider. The court will select six (6) jurors using the Struck Method. {10 in the box} No Alternates will be selected. Each party shall be permitted two peremptory challenges.

III. Trial Presentation

1. Strict Time Limits: Each side shall be entitled to a ten (10) minute opening and closing and seventy (70) minutes for presentation of its case. The time allotted to each side shall include the presentation of their case in chief and the cross examination of opposing witnesses. The court clerk will keep track of the time and remind counsel of allotted time at appropriate intervals.

2. Witnesses: Presentation of the case by counsel will involve a combination of witnesses, comment on admissible evidence and trial summation. Each side may call no more than two witnesses who will testify under oath on direct and cross-examination.

3. Presentation Generally: Attorneys may not independently testify but may comment on, and focus the attention of the Jury on admissible evidence. Counsel may quote from depositions affidavits, and verified Bills of Particular (but only the language from the most recent answers) Counsel may also use and comment on exhibits admitted into evidence. Of course, non-medical testimony may be presented by witnesses. Counsel may not refer to or comment on “evidence” which would not be admissible at Trial.

4. Medical Evidence: In presenting medical “testimony” or evidence, counsel may call a doctor to testify as one (or both) of his two witnesses or may submit medical records and comment on the medical records presented with emphasis on those portions of the record that counsel believes are relevant. Of course, opposing counsel may also comment on such record and may do so in a manner consistent with cross-examination or during his or her own case. A summary of medical records can be presented and provided to the jury for their consideration in deliberation as long as each record provide is, as stipulated by the parties or in the discretion of the Court, “fair and complete.” The hearsay contents of medical records shall be redacted for records or documents received into evidence and provided to the jury, and for any summary of medical records that will be submitted to the jury.

5. Rules of Evidence: Clearly the rules of evidence will be liberally construed. In the interest of time, “non-essential” leading questions may be asked in the discretion of the Court.
6. Statement of the Case: All counsel will submit to the Court a narrative summary statement of the case, including a summary of the evidence, no longer than one pages in length, which the Judge will use in explaining the case to the Jurors.

IV. Jury Charge

1. Submissions: All counsel must submit to the Court at least 24 hours prior to Trial a requests for charge and a proposed verdict sheet with appropriate questions to the jury. <mailto:tstander@nycourts.gov>. The Court will then fashion a verdict sheet(s) for the jury from those submitted by counsel. There will not be a post trial charge conference.
2. Separate Verdict Sheets: In the event there are separate issues to be decided by the jury (such as liability, no fault threshold, damages, etc.) the jury will be charged, will deliberate, and will answer the question or questions on the verdict sheet on each issue. The jury shall answer questions on separate verdict sheets by and as each issue is charged seriatim.

V. Trial Submissions:

1. Submissions by email: All submissions to the court on Summary Jury matters, including without limitation, the statement of the case, the summary of the evidence, requests to charge, and proposed verdict sheets, must be sent to the

Court by email (tstander@nycourts.gov) at least 24 hours prior to the start of the Trial. Hard copies need not be provided to the Court at the start of Trial.

DATED: _____, 20__
Rochester, New York

HON. THOMAS A. STANDER
Supreme Court Justice

(Example)

STIPULATION OF BINDING SUMMARYJURY TRIAL

IT IS HEREBY STIPULATED AND AGREED that this action shall be resolved by submission to a Summary Jury Trial in accordance with the Court’s Rules for Summary Jury Trials and the Summary Jury Trial Order of this Court and that all parties shall be bound by the Summary Jury Trial verdict, [except that the Plaintiff shall recover no less than \$_____, and no more than \$_____.]

IT IS ALSO STIPULATED AND AGREED that the right to move to set aside the verdict, or to appeal, is limited to instances in which the rights of a party were significantly prejudiced by corruption, fraud or gross misconduct. **All other rights of appeal are waived.**

Attorney for Plaintiff

Attorney for Defendant

Court Approved:

Dated:
Rochester, New York

APPENDIX H

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY

Plaintiff,

vs.

Defendants.

**STIPULATION
OF
BINDING SUMMARY
JURY TRIAL**

Index #
Case #

STIPULATION OF BINDING SUMMARY JURY TRIAL

IT IS HEREBY STIPULATED AND AGREED that this action shall be resolved by submission to a Summary Jury Trial in accordance with the Court’s Rules for Summary Jury Trials and the Summary Jury Trial Order of this Court and that all parties shall be bound by the Summary Jury Trial verdict, [except that the Plaintiff shall recover no less than \$_____, and no more than \$_____.]

IT IS ALSO STIPULATED AND AGREED that the right to move to set aside the verdict, or to appeal, is limited to instances in which the rights of a party were significantly prejudiced by corruption, fraud or gross misconduct. **All other rights of appeal are waived.**

Attorney for Plaintiff

Attorney for Defendant

Court Approved:

Dated:
Rochester, New York

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