

HON. EILEEN A. RAKOWER Part 6, Medical Malpractice IAS Part, Room 205, 71 Thomas Street, Tel: (646) 386-3312, Fax: (212) 520-1095

Court Attorneys:

- Jamie Y. Gold, Esq.
- Noelle Block Lubin, Esq.

Courtroom Part Clerk: Ms. Susan MacLeod (646) 386-3312

The calendar day for this part is Tuesday.

PRELIMINARY CONFERENCES

- The preliminary conference shall be scheduled 45 days from the first Request for Judicial Intervention.
- In completing the preliminary conference form, counsel or unrepresented parties should comply with the following time frames: Authorizations should be supplied within 30 days from the date of the preliminary conference. Plaintiff's deposition should be scheduled within 60 days of the preliminary conference. Defendants' depositions are generally conducted in the order in which the defendants are listed in the caption, but, where a defendant's deposition cannot proceed as scheduled, the remaining defendants' depositions should proceed as scheduled.
- Parties are to welcome to fax a Preliminary Conference form to (212) 520-1095 as long as it comports with the above.
- The date for filing the note of issue will be assigned as 12 months from the date of the preliminary conference.

CONFERENCES

- All appearances are at 9:30 A.M. unless otherwise directed.
- Counsel and parties who are appearing should be prepared and authorized to discuss all aspects of the matter including discovery and settlement of the matter.
- Please bring copies of all prior conference orders and stipulations to the conferences.
- Counsel must bring a list of all outstanding discovery. Items not on the list will be deemed (1) not requested; (2) complied with; or (3) withdrawn.

- If you have any motions pending, please bring this to the attention of the Court at the time of the conference and have working copies available.
- If the case has settled, the parties must promptly fax the Court with the stipulation of settlement and discontinuance.

PRE-TRIAL CONFERENCES

- Following the filing of the note of issue, all parties must appear for a pre-trial conference and be prepared to set a trial date.
- For conferences specifically designated as settlement conferences, the Court may require representatives of insurance carriers, or other persons having an interest in any settlement to also attend or be available by telephone.
- The Court requires three business days' notice for cancellation or adjournment of Settlement Conferences.
- At least three weeks before the initial pre-trial conference, plaintiff should communicate a written demand to defendant.

SETTLEMENT CONFERENCES

- Where all the parties seek a settlement conference with the judge, the parties need only contact the court attorney who will provide a date and time to appear.

DISCOVERY

- If during a deposition a dispute arises, the parties should consult the Uniform Rules for the Conduct of Depositions and make a record of their objections. (22 N.Y.C.R.R. § 221.1, et seq.) The Court will not make a ruling by phone.
- Pursuant to 22 N.Y.C.R.R. § 221.2, “[a] deponent shall answer all questions at a deposition, except (i) to preserve a privilege or rule of confidentiality, (ii) enforce a limitation set forth in an order of court, or (iii) when the question is plainly improper and would, if answered, cause significant prejudice to any person.” Sanctions will be imposed if the attorneys do not follow this rule during the course of depositions.

- Parties having discovery disputes are encouraged to advance their compliance conference by contacting the Clerk before filing any written motion.
- Plaintiff should file the note of issue only after completion of discovery, including non-party depositions.

ADJOURNMENTS

- Any adjournment must be approved by the Court.
- Requests for adjournments of conferences or oral argument of motions must be made by 3:00 p.m. on the immediate prior Monday.
- Adjournments will **NOT** be granted, on consent or otherwise, without a showing of exigent circumstances, and an affirmation attesting to the reason an adjournment is being requested.
- The Court does not accept stipulations signed by one attorney on behalf of another. Multiple signature pages are permitted.
- Parties seeking permission for an adjournment because of a pending dispositive motion must still appear at their scheduled compliance conference.
- Discovery will not be stayed pending any motion unless specifically ordered by the Court. Any request for a stay must be made by Order to Show Cause.
- The court will not grant adjournments where counsel anticipates making a *future* motion.

MOTIONS AND ORDERS

- Counsel is strongly encouraged to seek a conference with the Court to resolve any ongoing non-dispositive or ancillary disputes *prior* to filing motions over those disputes.
- Summary judgment motions must be made by order to show cause no later than 60 days after the filing of the Note of Issue. E-filed submissions are sufficient. However, if a party chooses to file a hard copy, please deliver directly to the Court at Part 6, 71 Thomas Street.
- Please be prepared to proceed immediately to a settlement conference or a pretrial conference after oral argument on a summary judgment motion in the event that the motion is denied.

- All motions should include pinpoint citations to documents contained within exhibits, where appropriate. For example, in a medical malpractice case, a citation to an operative report that is included in an exhibit containing medical records should not simply cite to the exhibit as a whole but rather should identify the document within the exhibit and any location within that document to which you direct the Court's attention. E.g., See Exh. C at operative report dated xx/xx/xx at page 1. Avoid using condensed transcripts of more than 4 pages per page.

ORDERS TO SHOW CAUSE

- Parties should be aware that once ex-parte accepts a proposed Order to Show Cause and uploads it into the e-filing system, **it remains the responsibility of the movant to present the Order to Show cause to the judge for signature.**
- Any motions where oral argument is required should be made by order to show cause.
- All orders to show cause shall be served by e-filing and overnight mail unless otherwise indicated.
- Sur-replies will not be accepted, without Court permission.
- Discovery is not stayed pending a motion, unless specifically ordered.
- Do not call the Court to determine whether a decision has issued. This information is available through the Supreme Court Records On-Line Library (SCROLL) and, if the action is e-filed, through NYSCEF.
- All documents submitted for in camera review **MUST** be bated and accompanied by a privilege log.
- Where counsel seeks to withdraw from representation, there shall be no stay in effect unless and until such motion is granted.
- When providing deposition transcripts as exhibits to the court, the parties must provide a complete copy of the entire deposition transcript.

COMMUNICATIONS WITH THE COURT

- The Court will **NOT** do business by phone. The only questions that are properly addressed to the Court are those concerning scheduling. All such inquiries should be directed to the Park Clerk, Susan MacLeod, (646) 386-3316. The Court is in recess from 1:00 P.M. - 2:00 P.M.
- **PLEASE DO NOT CALL OR WRITE CHAMBERS.**

- Please do not call the Court to adjourn a motion pending in the Motion Submission Part. In any event, no adjournment will be granted beyond 60 days. Uniform Rules for Trial Courts, 202.70, Rule 16(c).
- **EX PARTE COMMUNICATIONS ARE STRICTLY PROHIBITED. This includes any telephone calls to chambers regarding decisions rendered.**
- **DO NOT WRITE LETTERS OR EMAILS TO THE COURT UNLESS YOU:** 1) Seek to withdraw a motion or 2) Wish to advise the court that a case has settled.
- All letters, or other correspondence concerning substantive issues will be not be accepted or responded to.

3101(d) EXPERT EXCHANGES

- Plaintiffs shall serve their 3101(d) expert exchange no later than 60 days after the filing of the note of issue.
- Defendants shall serve their 3101(d) expert exchange no later than 30 days from the service of plaintiffs' expert exchange.

TRIALS

- At the commencement of trial, the Court is to be provided with the marked pleadings as well as proposed verdict sheets and requests to charge, with the understanding that these will be subject to revision.
- The Court is also to be provided with a copy of any deposition transcripts that are intended for use during trial, a list of proposed witnesses, all prior decisions in the case, and any notices to admit.
- If a trial witness used a translator at their deposition, the party calling that witness must notify the trial court two days in advance of the testimony that an official court interpreter is required - alert the court of the language, and dialect, if applicable - and estimate the length of time (half day, day, multiple days) that the interpreter will be needed.

POST TRIAL

- Any post trial motions must be made by Order to Show Cause within the statutory 15 days after the verdict. (See, CPLR §4405).