

Hill v City of New York

2025 NY Slip Op 33808(U)

October 6, 2025

Supreme Court, New York County

Docket Number: Index No. 154237/2025

Judge: Hasa A. Kingo

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. HASA A. KINGO **PART** **05M**

Justice

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ABIGAIL HILL,

Plaintiff,

- v -

THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF TRANSPORTATION

Defendant.

-----X

INDEX NO. 154237/2025

MOTION DATE 10/06/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19

were read on this motion for DISCOVERY.

Plaintiff Abigail Hill (“Plaintiff”) moves by affirmation of Joseph Taylor, Esq., dated September 8, 2025, to have this matter set down for a preliminary conference and for the court to advance that conference within forty-five (45) days, so that discovery may proceed without undue delay. Plaintiff emphasizes the seriousness of her injuries and the need for an expeditious discovery schedule. Defendants oppose to the limited extent that the court should instead refer the matter to the Differentiated Case Management (“DCM”) part for processing and issuance of a case scheduling order in accordance with established DCM protocols. The parties’ submissions are on file and have been considered.

For the reasons set forth below, Plaintiff’s motion is denied. The court, however, recognizes Plaintiff’s understandable frustration and the pressing nature of her claimed injuries, and—in order to move the matter toward resolution—sets this case for a court-sponsored settlement conference as provided below.

BACKGROUND AND PROCEDURAL HISTORY

On October 5, 2024, Plaintiff alleges she sustained injuries when she tripped and fell on a defective bollard and suffered, among other injuries, a fracture. Plaintiff served a notice of claim on or about October 15, 2024, appeared at a 50-h hearing on March 12, 2025, purchased an index number and filed a summons and verified complaint on March 31, 2025, and the City filed an answer on or about May 14, 2025. Plaintiff served a verified bill of particulars and filed a Request for Judicial Intervention (“RJI”) seeking assignment and a preliminary conference on May 28, 2025. To date, no preliminary conference or case scheduling order has been entered.

Plaintiff seeks an order compelling the court to set a preliminary conference within forty-five (45) days and to otherwise advance discovery so that depositions and examinations may be

scheduled without further delay. Plaintiff relies upon the Uniform Rules governing preliminary conferences, including 22 NYCRR § 202.12(a), (i) and (j), which authorize the court to hold preliminary conferences, permit parties to request advancement of a preliminary conference upon a showing of appropriate circumstances, and authorize the court to order such conferences as it deems helpful or necessary. Defendants acknowledge those rules but request that the matter be referred to the DCM part for processing consistent with the DCM protocols applicable to cases in which the City is a named party.

ARGUMENTS

Plaintiff argues that she has been severely injured, remains under medical care, has served discovery materials, and is prepared to proceed with depositions and medical examinations. She contends that further delay in obtaining a preliminary conference and an established discovery schedule prejudices her ability to prosecute her claim and to obtain timely relief. Plaintiff invokes the court's authority under the Uniform Rules to advance preliminary conferences in appropriate cases and asks the court to do so here.

Defendants agree that the case should proceed in an orderly and timely manner but urge that scheduling of preliminary conferences and case scheduling orders for cases involving the City must follow the DCM protocols established by the County. The City requests that the court deny Plaintiff's motion to the limited extent of directing the advance of a preliminary conference and instead refer the matter to the DCM part so that DCM may process the RJI and issue a case scheduling order in accordance with the DCM assignment and scheduling procedures. Defendants note that DCM assigns and schedules City cases in the sequence determined by RJI filings and existing DCM protocols.

DISCUSSION

The court recognizes the competing and parallel, but not incompatible, obligations to (1) ensure that cases are adjudicated expeditiously and without undue delay, particularly when a plaintiff alleges serious injury and ongoing medical treatment; and (2) manage its calendar and assign and schedule matters in accordance with the established DCM protocols that govern cases in which the City or a City agency is a party. The Uniform Rules specifically contemplate preliminary conferences as a vehicle to frame discovery, clarify issues, and promote efficient case management (*see* 22 NYCRR § 202.12(a), (i), (j)). At the same time, the DCM framework exists to ensure orderly processing and fair allocation of judicial resources among the numerous City-involved matters filed in this County.

The court possesses inherent and rule-based discretion to convene preliminary conferences when circumstances warrant. That discretion, however, is not boundless; where local case management systems (such as DCM) have been established and are designed to assign and schedule City cases by reference to the RJI filing and the City's appearance, the court must honor those protocols unless exceptional circumstances justify deviation.

Here, Plaintiff's RJI was filed on May 28, 2025. The record submitted by the City and Plaintiff indicates that DCM is processing City matters and that there are other matters with earlier

RJI dates pending before DCM that are awaiting preliminary conferences or scheduling orders. Under those circumstances, and given the importance of maintaining the integrity of a county-wide, administratively consistent assignment and scheduling process for City cases, it is neither practicable nor fair for this court to schedule a preliminary conference for this case ahead of cases that have an earlier priority in DCM's queue. To do so would disrupt the DCM sequencing and could result in unfairness to other litigants and inefficient use of judicial resources.

That said, the court does not minimize Plaintiff's concerns or the hardship that may attend delay. Plaintiff's injuries, continued medical treatment, and desire to proceed with discovery are compelling considerations that weigh heavily in favor of steps designed to move the case forward.

Balancing the need for orderly DCM administration against Plaintiff's demonstrated interest in an expeditious process, the court concludes that the proper course is to deny the motion to the limited extent of ordering an immediate preliminary conference outside the DCM sequence, while taking affirmative steps to facilitate settlement negotiations and prompt discovery cooperation so that the matter may be resolved—or, if not resolved, prepared for litigation—without unnecessary delay.

Plaintiff has a legitimate interest in expeditious discovery; the court acknowledges and shares that interest. But in light of the DCM part's established role in assigning and scheduling City cases and the representation that other matters with earlier requests are pending before DCM, the court will not (and cannot fairly) set this matter for a preliminary conference outside of the DCM sequence. Plaintiff's motion is therefore denied to the extent it seeks an order compelling an advanced preliminary conference within forty-five days. The motion is otherwise denied without prejudice to renewal if circumstances change (for example, if DCM fails to process the RJI within a reasonable administrative period, or if a showing of exceptional circumstances is made).

Notwithstanding the denial, and in an effort to move this case forward, the court directs that this matter is set for a settlement conference on November 17, 2025 at 10:30 A.M. in Room 320, 80 Centre Street, New York, NY. Plaintiff is encouraged to attend in person, and Plaintiff's counsel is directed to serve a demand and settlement package on the City immediately and to make it available to defense counsel at least fourteen (14) days before the scheduled conference. The parties shall use the settlement conference as an opportunity to narrow issues and to negotiate in good faith; if the case does not resolve, the parties shall continue to confer and to prepare for discovery in accordance with the Uniform Rules and CPLR while awaiting DCM scheduling.

Accordingly, it is hereby

ORDERED that the motion is denied, however, the DCM Clerk shall continue to process the RJI in the ordinary course and issue or schedule a preliminary conference and Case Scheduling Order pursuant to DCM protocols when the case reaches its turn; and it is further

ORDERED that in order to promote settlement and to reduce delay, and to provide an earlier, concrete opportunity for the parties to narrow issues or resolve the matter, this case is hereby set down for a settlement conference before this court on November 17, 2025, at 10:30 A.M. in Room 320, 80 Centre Street, New York, NY. The court strongly encourages Plaintiff to

attend in person; counsel for the City and counsel for Plaintiff shall attend in person or, if travel makes in-person attendance impracticable, shall notify chambers and propose an acceptable alternative that will still permit meaningful settlement discussions; and it is further

ORDERED that Plaintiff's counsel is directed to serve a written demand on the City immediately and to provide counsel for the City, and if appropriate chambers, with a comprehensive settlement package at least fourteen (14) calendar days before the settlement conference. The settlement package shall include (a) a cover letter stating the demand and the basis therefor; (b) medical records summary and a statement of medical specials and ongoing care; (c) a verified bill of particulars (already served) and a concise statement of economic and non-economic damages claimed; and (d) any other information reasonably necessary to permit the City to evaluate the claim prior to the conference; and it is further

ORDERED that the parties are strongly urged to cooperate regarding discovery (document productions, scheduling of depositions, and medical examinations) in accordance with CPLR and the Uniform Rules. Nothing in this decision and order precludes the parties from agreeing, without court order, to proceed with discovery earlier; indeed, the court encourages reasonable, consensual discovery scheduling so as to minimize prejudice from any administrative delay.

This constitutes the decision and order of the court.

HASA A. KINGO, J.S.C.

10/6/2025
DATE

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE