

PRELIMINARY CONFERENCE ORDER
PURSUANT TO PART 202 OF THE UNIFORM CIVIL RULES
FOR THE SUPREME COURT RICHMOND COUNTY

_____ MEDINA

DATE: 10/3/17
Index # 150044/2017

Plaintiff(s),

- against -

_____ CITY, et al.
Defendant(s).

Track Coordinator: Compler
Compliance Conference shall be held on
Thursday 12/14/2017
at 9:30 (A.M./P.M.)

ATTORNEY: Wingate, Curritto & Shapiro FOR PLAINTIFF: _____
Hallgren

ATTORNEY: WS Stanton FOR DEFENDANT: AI

ATTORNEY: _____ FOR DEFENDANT: _____

ATTORNEY: _____ FOR DEFENDANT: _____

ATTORNEY: _____ FOR DEFENDANT: _____

IT IS HEREBY ORDERED THAT THIS ACTION IS ASSIGNED TO THE Compler TRACK
AND ALL DISCLOSURE SHALL PROCEED AS FOLLOWS:

THE DISCOVERY END DATE IS 10/28/2018

1) **Insurance Coverage (CPLR 3101(f)):** If not already provided, shall be furnished by
defendant on or before 11/3/17, together with a sworn
statement as to excess insurance coverage. including excess

2) **Bill of Particulars:** (strike out any portion not applicable).

a) The municipal defendant(s)' time to answer the summons and complaint is extended and an answer together with a demand for a verified bill of particulars shall be served within 30 days of plaintiff(s)' hearing pursuant to General Municipal Law 50(h), if not held prior to filing the summons and complaint. Plaintiff shall serve a bill of particulars within 30 days of receipt of the demand.

b) Bill of particulars shall be served by defendant as to affirmative defenses on or before
_____. If a bill of particulars is not served in accordance with subdivision 2(a), the parties shall contact the Court at 718-675-8620 for a telephone conference on 10/3/17.

3) **Medical Reports and Authorizations shall be served as follows:** (strike out any portion not applicable)

a) HIPPA compliant authorizations for all medical treatment, physical therapy, chiropractic treatment, out-patient and/or in-patient hospital treatment, EMS records, prescriptions and diagnostic testing films and reports, including X-Rays, MRI's, CT/CAT Scans, NCV studies, and/or EMG studies, for any condition alleged to have been caused or exacerbated by the alleged incident from the date of the onset of the condition, as well as for prior and/or subsequent accidents/injuries and non-privileged file of any lawsuits involving the same areas injury of whatever type, shall be served within 30 days via certified mail/overnight mail/two-day priority mail/First Class mail and copies e-filed (if applicable) with confidential information redacted.

4) **Physical Examinations:**

a) Examination(s) of plaintiff shall be held within 45 days of plaintiff's deposition. The examinations shall be conducted at Richmond, Kenya and/or New York Counties.

b) A copy of the physician(s)' report shall be furnished to plaintiff within 45 days of the examination or as per the C.P.L.R. and Court Rules.

5) **Depositions:**

a) If a hearing has not been conducted pursuant to General Municipal Law §50(h), plaintiff shall appear on _____ at _____ A.M./P.M. at the following location:

5) **Depositions (continued):**

b) The parties shall appear for depositions as follows:

<u>Deponent</u>	<u>Date & Time</u>	<u>Place</u>
<i>All parties</i>	<i>12/13/17, 10 AM</i>	<i>In Richmond County, or as agreed by counsel</i>

c) The 50(h) hearing and the depositions may not be adjourned without Court approval. The parties must arrange for a conference call by contacting the Court at 718-675-8620.

6) **Disclosure:** (strike out any items not applicable)

a) All parties shall exchange names and addresses of all eyewitnesses and notice witnesses, statements of opposing parties and photographs. If none exist, an affirmation to that effect on or before 11/3/17.

b) Authorizations for plaintiff(s)' school records, employment records, Social Security Disability records, pension records and/or income tax returns including W-2 and/or 1099 forms for a period of 2 yrs. *prior to D/A to date* shall be furnished on or before 11/3/17 *if applicable.*

c) Demand(s) for discovery and inspection shall be served by any party and responses and/or objections thereto shall be served within 30 days of receipt. *or as per CPLR.*

d) Accident reports prepared in the regular course of business shall be exchanged pursuant to CPLR 3101(g) on or before 11/3/17.

e) Plaintiff shall provide on or before 11/3/17 HIPAA compliant authorizations for the following collateral source providers (CPLR 4545) No Funct carrier and Workers' compensation for prior accident

Motor vehicle accidents involving City-owned vehicles:

- i. Departmental Accident Report from respective City agency.
- ii. Maintenance and repair records for department vehicle involved for one year prior to and including the date of the occurrence, if a vehicular defect is alleged in either the departmental accident report or the MV-104.
- iii. Photos of damage to City vehicle.
- iv. Records regarding post-accident repairs shall be supplied by the City unless determined by the court not to be relevant to an issue in the case.

Cases involving allegations of police misconduct:

The City will provide the following within 90 days after receipt of an authorization from plaintiff and a "so-ordered" unsealing order:

- i. Complaint report
- ii. Complaint follow-up report
- iii. Arrest report
- iv. Memo book entries for incident in question
- v. On-line booking sheet
- vi. Copies of the applicable Patrol Guide shall be made available by the City for inspection and copying within 90 days.

Department of Education Cases:

- i. Department of Education Comprehensive Accident Report for the occurrence, subject to redaction of privileged information pursuant to the Family Education and Privacy Act, 20 U.S. Code Ch. 31. Extent and nature of the redaction, if questioned, are subject to motion under the statute.
 - ii. Witness statements, subject to redaction of privileged information pursuant to the Family Education and Privacy Act, 20 U.S. Code Ch. 31. Extent and nature of the redaction, if questioned, are subject to motion under the statute.
 - iii. For non-transitory conditions (including recurrent conditions), maintenance and repair records, written complaints and, to the extent applicable, related contracts for the situs of plaintiff's accident.
 - iv. For transitory conditions, maintenance records and written complaints regarding the condition complained of for three months prior to and including the date of the occurrence.
- (g) Surveillance videos to be provided in accordance with CPLR 3101(i).
- (h) Any party who wishes to obtain prior written notices of claim, pursuant to GML § 50-g, may do so by contacting Jackie Stagg at (212) 669-3422 to set up an appointment to search the index maintained at 1 Centre Street, New York, NY.
- (i) The New York City Police Department no longer maintains MV-104s beyond 30 days for accidents occurring after April 15, 1995.
- (j) All searches shall be conducted based upon the date and location as described in the notice of claim.

(6)(f) Other Disclosure from the City of New York:

Trip and Fall Cases (Department of Transportation):

- i. Applications for permits and permits for 2 years prior to and including the date of occurrence.
- ii. Cut forms and repair orders for 2 years prior to and including the date of occurrence.
- iii. Violations issued for 2 years prior to and including the date of occurrence.
- iv. A copy of the title and signature pages, and insurance declaration sheets and/or certifications, for all contracts in effect for two years prior to and including the date of occurrence.
- v. Contracts and all related contract documents (i.e. Progress reports) for two years prior to and including the date of occurrence will be made available for inspection and copying at either the Office of Corporation Counsel or the appropriate City agency, upon a mutually convenient appointment, but in no event more than 90 days hereafter or a subsequent request for same plaintiff.
- vi. Complaints made for 2 years prior to and including the date of occurrence.
- vii. A copy of the most recent Big Apple Pothole and Sidewalk Protection Corporation map file for the area in issue and if the incident occurred six months or less after the filing of the most recent such map, then the City shall also produce the last such map filed before the most recent such map for that location.

Cases involving allegations of defective traffic signals (Department of Transportation):

- i. Maintenance and repair records for 30 days prior to and including the date of occurrence.
- ii. Complaints made for 30 days prior to and including date of occurrence.
- iii. The name and address of contractor responsible for maintenance of the traffic signal on the date of the occurrence.
- iv. A copy of the title and signature pages, and insurance declaration sheet and/or certificates for all contracts in effect for two years prior to and including the date of occurrence.
- v. Contracts and all related contract documents (i.e. Progress reports) for two years prior to and including the date of occurrence will be made available for inspection and copying at either the Office of Corporation Counsel or the appropriate City agency, upon mutually convenient appointment, but in no event more than 90 days hereafter or a subsequent request for same by plaintiff.

Cases involving allegation of defective traffic signs (Department of Transportation):

- i. Maintenance and repair records for 6 months prior to and including the date of occurrence.
- ii. Complaints made for 6 months prior to and including date of occurrence.

Slip and Fall Cases (Department of Sanitation)

- i. District Operation Log (carting book) for the period of two weeks prior to and including the date of occurrence.
- ii. District Snow Operation Book for the above period.
- iii. Snow Removal Operation Report (SR2) and spreading or plowing operation card for the above time period, if occurrence took place in the roadway.

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