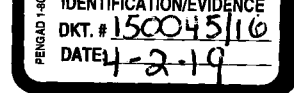


SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND



-----X
HENNESSY

Plaintiff(s),

Stipulation and Order:

Binding Summary Jury Trial

Index Number: 150045/2016

-against-

WINKLER

Defendant(s).
-----X

IT IS HEREBY STIPULATED AND AGREED, that the parties to this action, by their respective attorneys, voluntarily agree to the transfer of this matter for final disposition, for a binding summary jury trial, subject to the Richmond County Summary Jury Trial Rules. Unless the Court directs otherwise, the Rules for the Summary Jury Trial in Richmond County shall govern this action and the conduct of counsel and the parties at the Summary Jury Trial scheduled herein. The signatories to this Agreement represent that they have the authority of their respective clients and/or insurance carriers to enter into this stipulation/order.

IT IS FURTHER STIPULATED AND AGREED, that a Summary Jury Trial shall be held on the issues of:

☒ liability and damages

☐ liability only

☐ damages only

IT IS FURTHER STIPULATED AND AGREED, that the following high/low damages parameters have been approved by all parties:

\$ 100,000
High \$ ~~75,000~~ Low \$ ~~15,000~~

IT IS FURTHER STIPULATED AND AGREED, that if high/low damages parameters have not been agreed to, that a verdict is hereby limited to the amount of the insurance policy.

IT IS FURTHER STIPULATED AND AGREED that the right to move to set aside the verdict, or to appeal, is waived, and costs and disbursements associated with the above captioned matter are waived.

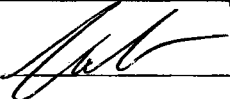
IT IS FURTHER STIPULATED AND AGREED, that any pending motions filed with the Court in this action are withdrawn and that the parties hereto agree not to file any written motions subsequent to the execution of this Stipulation.

Attorneys for Plaintiff(s)

Print Name: John Mazzaro

Phone Number: 631-219-5852

E-Mail: JMazzaro@lawplc.com


Signature: 

Attorney for Defendant(s)

Print Name: Glenn Schwartz

Phone Number: 517 917 414-0179

E-Mail: GSCHWARTZ@GEICO.COM

Signature: 

Attorneys for Plaintiff(s)

Print Name: _____

Phone Number: _____

E-Mail: _____

Signature: _____

Attorney for Defendant(s)

Print Name: _____

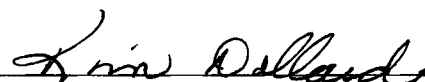
Phone Number: _____

E-Mail: _____

Signature: _____

Dated: 7/1/19

SO ORDERED


HON.

Hon. Kim Dollard
Acting Supreme Court Justice

SUPREME COURT, RICHMOND COUNTY
SUMMARY JURY TRIAL PROGRAM [SJT]
INFORMATION SHEET

Essential Features:

- A SJT is a binding one day jury trial with relaxed rules of evidence
- Medical evidence can be submitted without live medical testimony
- Hi-Low parameters can be stipulated to, i.e. \$0/\$25k, \$50k/\$250k
- No appeal
- No directed verdict
- No motion to set aside the verdict
- A date certain for trial
- Innovative method of case presentation to the jury, including direct submission to jury of medical records, reports, power point presentations, etc.
- Supreme Court Judge presides at trial
- Verdict limited to amount of insurance policy

General Rules:

- Written stipulation by attorneys required to participate
- Signed waiver of right to appeal and waiver of post trial motions
- No Findings of Fact/Conclusions of Law required
- No Judgment entered. Rather, releases and stipulations are exchanged
- Pre-marked exhibits, medical records, reports, photos, diagrams, and other physical evidence presented directly to jury
- Each party must make packets for each juror containing the appropriate documents
- All evidence, trial notebook and exhibits must be exchanged in advance of trial or be excluded
- Evidentiary hearing held before trial to resolve objections, redactions and other pre-trial issues, including objections to proposed exhibits
- Medical records which are not certified or affirmed are admissible on consent or by court order
- Video live/pre-recorded testimony permitted
- Upon consent of all parties a tape recording rather than a transcript prepared by a court reporter is permitted

General Procedures:

- Abbreviated jury selection
- 10 minute opening and 10 minute closing for each side
- One hour for case presentation and cross examination by each side
- Modified jury charges

**THE SUMMARY JURY TRIAL PROCESS:
RICHMOND COUNTY RULES AND PROCEDURE**

Introduction: Nature of the Binding Summary Jury Trial: A summary jury trial is generally a one-day jury trial with relaxed rules of evidence similar to arbitration. However, a jury decides factual issues and renders a verdict as a jury would in a traditional trial and the parties waive all appeals. In the absence of modifications by counsel and approval by the trial court, the process and rules that follow shall apply.

Rules:

- 1. Consent of Parties:** Attorneys for all parties must sign a Stipulation, that they have the authority of their respective clients and/or insurance carriers to enter into the agreement, that the agreement is irrevocably binding upon their respective principals, and that these summary jury trial rules and procedures will be applied.
- 2. Stipulation:** In addition to the above, the Stipulation shall contain provisions relating to the establishment, if agreed upon, of high/low damage parameters; agreement waiving any right to appeal and such other terms as may be required by the court from time to time. The high and low parameters, if any, shall not be disclosed to the jury in a summary jury trial.
- 3. No Right to Appeal:** The parties shall agree to waive costs and disbursements and to waive the right to appeal from the determination of this matter. Written findings of fact and conclusions of law shall not be required. Following a jury determination, the parties shall not enter judgment but, instead, will exchange general releases and stipulations of discontinuance. Payment of any funds due shall be made in accordance with the relevant provisions of the Civil Practice Laws and Rules and applicable law.
- 4. Scheduling:** The Administrative Judge will conference cases and upon consent of all parties schedule the matter for a summary jury trial. If the parties, prior to being sent to JCP, agree to a summary jury trial, the parties shall enter into a written stipulation and send it to the JCP judge who will then schedule such case for a summary jury trial. Summary Jury Trials [SJT] will be placed on the calendar for trial at the earliest possible date.

The proposed evidentiary offering should preferably be presented in the form of a trial notebook with a table of contents. The court will rule on the admissibility and redaction of each of the items submitted by the parties. Only items approved and so marked by the court will be admissible upon the trial of the matter.

5. Pre-trial and Trial Submissions:

a) Any party intending to offer documentary evidence at trial, including but not limited to accident reports, medical reports, lost income records and portions of examinations before trial that a party intends to read to the jury as part of its direct case, shall serve copies of such documentary evidence upon all parties prior to trial. Lists of proposed trial witnesses shall be similarly served.

b) The SJT judge assigned to the case shall conduct a conference in the nature of an

13. **Infant Plaintiff:** When the plaintiff is an infant, the court must approve any high/low damage parameters prior to trial.

14. **Jury Charges:** The jury shall be charged with the standard Pattern Jury Instruction Charges. However, the charges may be reduced to their essential elements.

15. **High/Low Damage Parameters and Apportionment of Liability:** The parties may agree to high/low damage parameters for an award to the plaintiff. In the event that the jury determines that the plaintiff bears a percentage of fault, then any monetary award shall be reduced by such percentage. In the event that such reduction results in an award to the plaintiff below the "low" parameter, the plaintiff shall recover the "low" amount. If the award of the jury is above the "high" parameter, the plaintiff's recovery is limited to the "high" amount. If the reduction of the monetary award by reason of the plaintiff's culpable conduct results in the computation of a recovery between the "low" and the "high" parameter then that sum shall be recovered by the plaintiff. For example (a) the jury awards results in the computation of a recovery between the "low" and the "high" parameter then that sum shall be recovered by the plaintiff. For example (a) the jury awards \$75,000 but finds the plaintiff 50% responsible, then the award is \$37,500. With a \$10,000/\$30,000 "high/low" the plaintiff's recovery would be \$30,000; (b) the jury awards \$12,500 and finds the plaintiff 10% liable, then the award is \$11,250. With a \$15,000/\$25,000 "high/low" the plaintiff's recovery would be \$15,000; (c) the jury awards \$12,500 and finds the plaintiff 10% liable, then the award is \$11,250. With a \$5,000/\$25,000 "high/low" the plaintiff's recovery would be \$11,250.

16. **No Judgment Entered; Releases and Stipulations Exchanged:** Regardless of whether the parties have agreed to "high/low" parameters, after the jury verdict, if the plaintiff is entitled to damages, then the plaintiff shall provide to the defendant a general release and stipulation of discontinuance. Any award or settlement amount shall be deemed to include interest, costs and disbursements. Plaintiff shall not enter a judgment until and unless the defendant(s) fail to make payment pursuant to CPLR §5003-a. Any judgment rendered shall be treated as a stipulation of settlement and shall not be intended to have res judicata or collateral estoppel effect.

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