

**SUPREME COURT, NEW YORK COUNTY
PRELIMINARY CONFERENCE ORDER**

PRESENT: HON. _____, Justice Part No. _____

-----X
Index No.: _____

DCM Track: _____

Plaintiff(s),

Comp. Conf. Date: _____

- against -

Note of Issue Date: _____

Defendant(s).

-----X
I. Insurance Coverage:

- (a) Defendant City of New York and/or other defendants represented by Corporation Counsel, if any, is/are _____ self-insured _____ covered by an insurance policy.
- (b) If not already provided, Defendant(s) _____ to furnish to all parties evidence of primary and excess coverage and Certificate of Insurance within 30 days.

II. Bill of Particulars:

- (a) A verified bill of particulars shall be served by _____ within 60 days.
- (b) A supplemental bill of particulars shall be served by _____ as to Item(s) _____ within 60 days.
- (c) A verified bill of particulars as to affirmative defenses shall be served within 60 days.

III. Medical Reports and Authorizations:

- (a) Plaintiff(s) shall provide authorizations to obtain copies of the actual records of all treating and examining health care providers, including diagnostic tests, x-rays, MRIs, EMGs, CT Scans, for injuries specified in the bill of particulars, within 60 days.
- (b) Plaintiff(s) shall provide an authorization for collateral source information, if any, within 60 days.
- (c) If plaintiff is claiming a loss of income or wages, authorizations for W-2 forms or employment records shall be provided for the year of, year before and year after the date of the alleged accident, as well as authorizations for the period of time lost from work as a result of the alleged accident, within 60 days, or IRS records if provided by law.
- (d) If plaintiff was a student at the time of the alleged accident, plaintiff shall provide an authorization for school attendance records for the period of time lost from school as a result of the alleged accident, within 60 days.
- (e) For cases alleging police assault or false arrest, plaintiff(s) shall prepare an unsealing order, to be "so ordered" by this Court, to obtain a copy of the Criminal Court file. Plaintiff(s) shall also serve the "so ordered" unsealing order upon the Criminal Court and provide Corporation Counsel with a copy of the Criminal Court file provided by that Court to plaintiff(s) in response to said order, within 30 days thereof.

IV. Physical Examination:

- (a) A physical examination of the plaintiff(s) shall be scheduled within 60 days after completion of examination before trial of the plaintiff(s).

- (b) A copy of the physician's report shall be furnished to plaintiff(s) within 45 days after the examination.
- (c) Defendant(s)' right to a further physical is reserved as to any new injuries claimed in any supplemental bill of particulars served by plaintiff(s).

V. Depositions [Check applicable box]:

- (a) The depositions of the following parties shall take place on _____ at _____ AM/PM in the Office of the Corporation Counsel located at _____ unless otherwise agreed to by the Corporation Counsel.
 _____ All parties
 _____ Plaintiff(s) _____
 _____ Waived by _____ as to _____

- (b) Defendant(s)' right to a further deposition of plaintiff(s) is reserved as to any new injuries or damages claimed in any supplemental bill of particulars served by plaintiff(s) following the plaintiff's deposition.

VI. Other Disclosure:

- (a) All parties shall provide the names and addresses of any witnesses to the occurrence and notice witnesses; accident reports; party statements; and photographs taken in the ordinary course of business and/or to be presented at trial, within 90 days.
- (b) All parties shall supply expert witness disclosure pursuant to the CPLR.
- (c) The City of New York and/or other defendants represented by Corporation Counsel, if any, shall provide the following information to all parties within 90 days after the date of this order, subject to the date and location specified in the notice of claim [check if applicable]:

___ 1. Premises Liability Cases:

- i. Departmental accident/incident report from respective City agency;
- ii. For non-transitory conditions (including recurrent conditions), maintenance and repair records and written complaints regarding the condition complained of for 18 months prior to and including the date of occurrence.
- iii. For transitory conditions, maintenance records and written complaints regarding the condition complained of for one month prior to and including the date of the occurrence.
- iv. If applicable, lease and/or sublease for the City-owned building.

___ 2. 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 the occurrence.
- ii. District Snow Operation Book for the above period of time.
- iii. Snow Removal Operation Report (SR-2) and spreading or plowing operation card for the above time period, if the occurrence took place in the roadway.

___ 3. Trip and Fall Cases (Department of Transportation (DOT)):

- i. Applications for permits and permits for 2 years prior to and including the date of occurrence;
- ii. Cut forms, repair orders and repair records 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 certificates, for all contracts in effect for two years prior to and including the date of the occurrence shall be supplied by the City within ___ days.
- 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 the Corporation Counsel located at _____, New York, or the appropriate City agency, upon a mutually convenient appointment, but in no event more than 90 days following the Preliminary Conference or a subsequent request for same by 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 filed for the area in issue and, if the incident at issue 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.

___ 4. Cases involving allegations of defective traffic signals (DOT):

i. Maintenance and repair records for 30 days prior to and including date of occurrence;

ii. Complaints made for 30 days prior to and including date of occurrence;

iii. The name and address of the contractor responsible for maintenance of the traffic signals on date of the occurrence.

iv. A copy of the title and signature pages, and insurance declaration sheets and/or certificates, for all contracts in effect for two years prior to and including the date of the occurrence shall be supplied by the City within ___ days.

v. Contracts and all related contract documents (i.e., progress reports) for two years prior to and including the date of the occurrence will be made available for inspection and copying at either the Office of the Corporation Counsel located at _____, New York, or the appropriate City agency, upon a mutually convenient appointment, but in no event more than 90 days following the Preliminary

Conference or a subsequent request for same by plaintiff.

___ 5. Cases involving allegations of defective traffic signs (DOT):

i. Maintenance and repair records for six months prior to and including the date of occurrence;

ii. Complaints for six months prior to and including the date of the occurrence.

___ 6. Cases involving allegations of police misconduct:

The City will provide the following within 90 days after receipt from plaintiff of an authorization and "so-ordered" unsealing order described in III (e) above:

i. Complaint Report;

ii. Complaint Follow Up Report(s);

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.

vii. Copies of all 911 tapes, if still in existence, and of all sprint printouts for any 911 calls and radio transmissions related to the events of the action.

___ 7. Inmate assault cases (Department of Correction (DOC)):

i. Department of Correction incident report, subject to redaction of privileged information, including any information regarding criminal acts of other inmates and/or personal information regarding DOC employees;

ii. Injury to inmate report (within 90 days after receipt of an authorization from plaintiff).

iii. In camera review of redactions to be made upon request of plaintiff's attorney.

___ 8. Motor vehicle accidents involving City-owned vehicles:

i. Departmental Accident Report from respective City agency.

- ii. Maintenance and repair records for the 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 shall be supplied by the City within ____ days.
- 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.

____ 9. Board of Education Cases:

- i. Board 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. 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, regarding the condition complained of for 18 months prior to and including the date of occurrence.
- 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.

- (d) Surveillance videos to be provided in accordance with CPLR 3101(i).
- (e) Any party who wishes to obtain prior 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, New York.
- (f) The New York City Police Department no longer maintains MV-104s beyond 30 days for accidents occurring after April 15, 1995.
- (g) All searches shall be conducted based upon the date and location as described in the notice of claim.

VII. Co-defendant(s) and/or third-party(ies) to provide the following to all parties:

VIII. Third-party actions/Impleader

Shall be completed on or before _____

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IX. Compliance With Directives and Compliance Conference:

A party seeking compliance with this order should contact the court to schedule a compliance conference in lieu of a discovery motion. In addition, a compliance conference shall be held on the date indicated in the apposite space on the first page of this Order.

X. Note of Issue Date:

A note of issue shall be filed by the date indicated in the apposite space on the first page of this Order.

XI. Additional Directives Required by the Circumstances of the Specific Case:

Any inexcusable failure to comply with any of these directives may result in the imposition of costs or sanctions or such other action authorized by law as the court deems appropriate in the circumstances. In the event that a dispute arises between parties with regard to any directives in this Order, the parties shall consult with one another in an effort to resolve the dispute and any aggrieved party, prior to bringing on a motion, shall inform the Part of the existence of the problem.

This constitutes the Order of this court.

Dated: _____ J.S.C.

AGREED TO:

_____,
Counsel for _____

_____,
Counsel for _____

_____,
Counsel for _____

_____,
Counsel for _____

APPEARANCES/COPY OF ORDER RECEIVED ON DATE HEREOF:

_____ (Phone)

(Phone)

Attorney for Plaintiff(s)

(Phone)

(Phone)

Attorney for Defendant City of New York

Attorney for Plaintiff(s)

Attorney for Defendant(s)