

August 10, 2017

RULES OF
HON. RENÉE FORGENSI MINARIK
ACTING SUPREME COURT JUSTICE



Hall of Justice
99 Exchange Boulevard
Rochester, New York 14614
585-325-4500

Law Clerk: Sean E. Gleason, Esq.
sgleason@nycourts.gov

Secretary: Nancy M. Schreiber
nschreib@nycourts.gov

January 7, 2017

I

GENERAL RULES

1. **Appearances by Counsel with Knowledge and Authority.** Counsel who appear in the Court must be fully familiar with the case and authorized to enter into agreements, both substantive and procedural, on behalf of their clients.

2. **Settlements and Discontinuances.** If an action is settled, discontinued, or otherwise disposed of, counsel should immediately inform the Court and provide a copy of the stipulation; filing a stipulation of discontinuance with the County Clerk is required by Law but does not provide notice to the Court.

3. Fax and E-mail.

(a) **Fax.** Do not fax papers to the Court without prior approval. If approved, the timely submission of originals is still required.

(b) **E-mail.** Email communication with the Court is not permitted unless the Court initiates the exchange or grants permission. Email communication shall not be used if any party is *pro se*.

II

PRE-TRIAL MATTERS

4. **Conference: Requests.** A conference will be scheduled upon a request of counsel, either by contacting chambers on a case assigned to Justice Minarik or by the filing of a RJI. Counsel shall submit a copy of the pleadings and Bill of Particulars prior to the scheduled conference.

(a) A preliminary conference scheduled pursuant to 22 NYCRR 202/12 shall receive a Preliminary Conference letter with specific instructions from the Court. See Appendix A.

5. **Conference Agenda.** At any conference counsel shall be prepared to discuss (a) the facts; (b) resolution of the case, in whole or in part; (c) discovery and any other issues; and (d) the use of Alternate Dispute Resolution to resolve some or all of the issues.

6. **Adjournments of Conferences.** Counsel seeking an adjournment must first contact all counsel to request their consent. Adjournment is at the discretion of the Court and may be permitted for good cause shown.

7. **Non-Appearance at a Conference.** Phone conferences may be scheduled for the Court's convenience. If personal appearance by counsel is required, the Court will notify counsel to appear in person. The failure of counsel to appear by phone or in person for a conference without good cause will result in an order directing the appropriate sanction. See 22 NYCRR §130-2.1 and §202.27.

8. **Adherence to Discovery Schedule.** If deemed appropriate, the Court will issue a Scheduling Order. Parties shall strictly comply with discovery obligations and the dates set forth in all Scheduling Orders. Any request for an extension or amendment of the Scheduling Order must be made by a letter request to the Court on notice to opposing counsel at least five (5) days before the expiration of the scheduled date and must be accompanied by a proposed Amended Scheduling Order and an indication of consent by the opposing party. Non-compliance with a Scheduling Order will have penalties, including but not limited to those set forth in CPLR §3126.

9. **Disclosure/Discovery Disputes.** Counsel must consult in a good faith effort to resolve all disputes about disclosure. See 22 NYCRR §202.7. If counsel are unable to resolve a disclosure dispute, the aggrieved party may have the right to bring a formal motion to compel or for sanctions or other relief. However, before filing a disclosure motion, the party seeking disclosure shall call chambers and schedule a phone conference. Discovery motions filed before scheduling a phone conference will result in the motion papers being returned.

III

MOTIONS

10. **Form of Motion Papers.** The movant must specify, clearly and comprehensively, in the notice of motion, order to show cause, and in a concluding section of a memorandum of law, the exact relief counsel seeks.

Motions NOT e-filed:

- (a) Motion papers must be submitted with the return date blank; the Court will advise movant of the assigned return date. The movant shall then fax a copy of the notice of motion with the return date inserted to all parties and the Court.
- (b) The motion papers should be in a colored backing indicating the law firm name, with all submissions from a party being in the same color backing. The Court's copy of the papers should **not** be bound with an unremovable plastic fastener; the use of three-ringed binders for voluminous submissions is preferred. Remember—you don't want the Court to struggle to read, hold and carry your papers! Separate Affidavits should be backed separately and not be "buried" in the exhibits or a memorandum of law.
- (c) Motion papers should be double-spaced and contain print no smaller than ten-point, on 8 ½ x 11 inch paper, with margins no smaller than one inch. See CPLR Rule 2101 and 22 NYCRR §202.5. The print size of footnotes shall be no smaller than nine-point.
- (d) **Confidential Personal Information must be redacted or the motion papers will be returned. See 22 NYCRR §202.5 (e).** This includes SSN, dates of birth and names of infants contained in attached medical records and police reports, and account numbers in financial cases.
- (e) Counsel must attach copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion, especially on motions pursuant to CPLR §3211 and §3212.
- (f) Exhibits should be tabbed and legible. If a document referenced an affidavit or affirmation is voluminous and only discrete portions are relevant to the motion (such as with a deposition transcript), attach excerpts as exhibits and submit the full exhibit separately.
- (g) If exhibits are voluminous they should be backed separately and the parties should, whenever possible, refer to the exhibits already submitted by others.
- (h) Photos should be in color and clear if you want the Court to consider them. Photocopies that do not show relevant details will not be considered. Documents in a foreign language shall be properly translated (CPLR Rule 2101[b]).

Motions that ARE e-filed:

- (a) If requested by the Court, one working copy of **all motion** papers filed shall be delivered to Justice Minarik at 144 Exchange Blvd., Suite 500, Rochester, 14614.
- (b) This rule applies to all motions except those: (1) involving debt collection; (2) for default judgment; (3) for contempt arising from failure to respond to an information subpoena; and (4) involving discovery issues [Note: ***No discovery motion shall be filed without first requesting and participating in a phone conference with the Court.**]. For these motions, the Court does not require delivery of a working copy. If you have a simple motion that does not fall into these categories, contact chambers at 585-325-4500 to inquire whether a working copy is required.
- (c) A "working copy" shall have exhibit tabs and legible copies of documents and photos. If more than 1" thick, please staple or bind along the left side for easier reading. (See above rules for motions not e-filed.)

LEGAL AUTHORITY AND CITATIONS

11. Whenever counsel cites a decision or other authority not readily available to this Court, a copy of it should be submitted with the motion papers.

12. Case law should not be placed in the Attorney's Affirmation but in a separate Memo of Law. Memos of Law can be brief; not every case warrants pages of black letter law and string citations. [Note: Justice Minarik has a particular dislike for string citations.]

13. **Proposed Orders.** When appropriate, proposed orders should be submitted with routine motions, e.g., motions to withdraw, *pro hoc vice* admissions, etc. No proposed order should be submitted with dispositive motions.

14. **Adjournment of Motions.** Counsel seeking an adjournment must first contact all counsel to request their consent. Adjournment is at the discretion of the Court and may be permitted for good cause shown. Upon granting an adjournment, no additional papers shall be submitted without the permission of the Court. If no opposition papers have yet been submitted, or, if additional papers are specifically allowed by the Court, these papers must be submitted ten (10) days prior to the

January 7, 2017

adjourned return date and reply papers must be submitted seven (7) days prior to the adjourned return date.

15. **Length of Papers.** Unless otherwise permitted by the Court for good cause, briefs or memoranda of law are limited to 25 pages each. Affidavits and affirmations shall be reasonable in length.

16. **Sur-Reply and Post-Submission Papers.** The CPLR does not provide for sur-reply papers, however denominated. Nor is the presentation of papers or letters to the Court after submission or oral argument of a motion permitted. Absent express permission in advance, such materials will be returned unread. Opposing counsel who receives a copy of materials submitted in violation of this Rule should not respond in kind.

17. **Motions to Reargue/Renew.** These motions are always on submission, unless oral argument is requested by the Court.

18. **Temporary Restraining Orders.** Generally, the Court will not issue a TRO on substantive issues unless the applicant has given notice to the opposing parties sufficient to permit them an opportunity to appear and contest the application. Therefore, the moving party shall submit to the Court contact information regarding counsel for the opponent, if known. Upon receipt of a TRO request, the Court may set a conference with all counsel as soon as possible to discuss the application.

19. **Oral Argument.** All motions will be set for oral argument on the assigned return date unless otherwise directed by the Court. The Motion Calendar is published on the return date in The Daily Record. No appearance for oral argument is required when (a) the Court approves the waiver of oral argument; (b) there is a Consent Order; (c) it is an uncontested motion; (d) the motion is withdrawn; or (e) the motion is to reargue or renew a prior motion.

20. **Motion Decisions and Orders.**

- (a) **Unopposed motion.** As soon as possible after the return date, counsel should submit a proposed order, with an affidavit of service of the motion.
- (b) **Consent.** Counsel should submit a Consent Order signed by all parties as soon as possible.
- (c) If unopposed or consent orders are not timely received, the motion will be considered withdrawn, without prejudice.

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- (d) When the Court issues a Bench Decision, counsel will be directed to obtain and attach a transcript of the Bench Decision, and reference the transcript and bench decision in the Order.

IV TRIALS

25. Trial Schedule.

- (a) The Court's Trial Ready Calendar is comprised of cases with Notes of Issue filed. If counsel is aware of personal or witness scheduling issues, they should notify the Court as soon as the Note of Issue is filed because it is assumed that all cases are ready to be scheduled at any time after the NOI is filed.
- (b) Counsel are expected to be ready to proceed either to select a jury or to begin presentation of proof upon a call from the Court scheduling a trial date. The Court will attempt to provide counsel with a minimum of 3 weeks notice.
- (c) Once a trial date is set, counsel must immediately determine the availability of witnesses. If, for any reason, counsel are not prepared to proceed on the scheduled date, the Court is to be notified as soon as reasonably practicable. Failure of counsel to provide such notification will be deemed a waiver of any application to adjourn the trial because of the unavailability of a witness. Witnesses are to be scheduled so that all trial time is completely utilized. Videotaping of expert witness testimony is encouraged.

26. **Trial Order.** The Court will generally issue a Trial Order establishing a day certain trial date, and setting forth the Rules of the Court specific to the Trial. See Appendix B.

27. **Jury Selection.** The Court's Jury Selection process is set forth in Appendix C.

APPENDICES

APPENDIX A	Preliminary Conference Letter & Order
APPENDIX B	Pre-Trial/Note of Issue Conference Letter
APPENDIX C	Trial Letter/Order
APPENDIX D	Jury Selection Method

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If the signed stipulation is not received, the preliminary conference will occur. Please be prepared to discuss your client's position, relevant facts of the case, any anticipated discovery problems, potential third-party actions or other items which are germane to the progress of this case.

Counsel should personally confer before the day of the conference to discuss scheduling, discovery and any other issues that may affect the progress of the case.

Thank you for your attention to this matter.

Very truly yours,

Nancy M. Schreiber
Secretary to Justice Minarik

cc: Court Clerk

Enclosure

SUPREME COURT, COUNTY OF MONROE

INDIVIDUAL ASSIGNMENT PART, Acting J.S.C. Renee Forgensi Minarik

Plaintiff(s)

-against-

Defendant(s).

**PRELIMINARY CONFERENCE
STIPULATION AND ORDER**

(Sections 202.8 and 202.12 of the
Uniform Rules)

INDEX NO.

(All items on this form must be completed unless inapplicable.)

It is hereby STIPULATED and ORDERED that disclosure shall proceed as follows:

(1) **Insurance Coverage:** If not already provided, shall be furnished by each defendant and third-party defendant on or before _____.

(2) **Bill of Particulars:**

(a) Demand for bill of particulars/interrogatories and discovery demand shall be served by _____ on or before _____.

(b) Bill of particulars/interrogatory answers and discovery response shall be served by _____ on or before _____.

(3) **Medical Reports and Authorizations:**

Shall be served as follows: _____

Plaintiff shall send defendant(s) copies of all medical records obtained within ten (10) days of receipt.

Defendant(s) may use any authorization to obtain medical records and if it does, copies of those records shall be supplied to plaintiff within ten (10) days of receipt.

(4) **Physical Examination:**

(a) Examination of _____ shall be held on or before _____.

(b) A copy of the physician's report shall be furnished to plaintiff within _____ days of the examination.

(5) **Depositions:** All deposition shall take place on or before _____.

v

Index No. _____

(6) **Other Disclosure:**

(7) **End Date for All Disclosure {must be within 12 months}:** _____.

(8) **Impleader:** Shall be completed on or before _____.

A copy of this order shall be served with any third-party summons, and shall apply to any added parties. If the added party wishes a modification of this order, it must schedule a conference or submit an amended schedule signed by all parties. Any conference shall be scheduled by phoning chambers to select a date. The conference shall be held or the amended schedule submitted to the Court within thirty (30) days of service of the third-party summons.

(9) **Motions:** Any dispositive motion(s) shall be made *returnable* on or before *sixty days after the filing of the Note of Issue*. All motions and answering papers are to be filed with the Supreme Court Clerk.

(10) **Note of Issue:** _____ shall file a note of issue/certificate of readiness on or before _____.

(11) **Discovery disputes or issues:** If there is a discovery issue (at any time), the parties agree as follows:

To comply with 22 NYCRR 202.07 to resolve the dispute and if it cannot be resolved, then to immediately telephone chambers and schedule a conference on a date convenient to all counsel for the purpose of resolving any discovery dispute before filing any discovery motion. Every effort shall be made to select a date convenient to all counsel.

At least two days before the conference, each party shall deliver to the Court a statement outlining the dispute and stating its position.

(12) The **final pre-trial conference** shall be held at the chambers of the Hon. Renee Forgens Minarik at a time to be noticed by this court, at which time counsel for each party must be present and certify to the court that:

- a. discovery has been completed,
- b. settlement discussions have been unsuccessful, and
- c. the case is ready for trial.

(13) **Expert Disclosure:** Except as otherwise directed by the Court, a party who has the burden of proof on a claim, cause of action, damage or defense shall serve its response to an expert demand served pursuant to CPLR 3101(d) on or before the filing of the note of issue, and sixty (60) days after receipt of that response, any opposing party shall serve its answering response pursuant to CPLR 3101(d). Any amended or supplemental expert disclosure shall be allowed only with the permission of the Court. Unless the Court directs otherwise, a party who fails to comply with this rule is precluded from offering the testimony and opinions of the expert for whom a timely response has not been given.

The word "expert" shall include, but is not limited to, any physician, dentist, chiropractor, psychiatrist, psychologist, other health care provider of any speciality, economist, engineer, architect, lawyer, accountant, appraiser,

rehabilitation counselor or other person who will testify concerning his/her qualifications and give opinions concerning the issues in the case. However, "expert" shall not include a treating physician or other treating health care provider whose records(s), and report(s) have been timely provided.

Any motion to preclude, or limit expert testimony under this rule must be returnable as soon as practicable but no later than forty-five(45) days of its receipt or the motion will be waived.

(15) **Extensions**: Extensions of this stipulation are granted only if necessary. An Application may be made by (1) submitting an explanation outlining the discovery completed and outstanding together with an amended schedule on a "consent letter" showing all dates to be affected, (2) or by phoning chambers and scheduling a conference on a date convenient to all counsel. Any application must be received by the Court before the last date in the stipulation to be amended.

(16) *Failure to comply with any of these directives may result in the imposition of costs or sanctions or other action authorized by law.*

(17) *In the event a note of issue is not timely filed, the Court may declare this case ready for trial and schedule a final conference. If that occurs, no extensions of any deadlines will be granted, and any discovery not requested will be deemed waived.*

(18) **Conferences**: Any conferences requested by counsel shall be scheduled by telephoning chambers, and giving date(s) on which all counsel are available. The conference will be scheduled on a date convenient to counsel and the Court.

DATED:

Attorney for Plaintiff(s)

Attorney for Defendant(s)

Attorney for Defendant(s)

Dated:

Rochester, New York

SO ORDERED.

Hon. Renee Forgens Minarik, Acting J.S.C.

^v
Index No.

ADDITIONAL DIRECTIVES

In addition to the directives set forth on the annexed pages, it is further **ORDERED** as follows:

Dated: _____

SO ORDERED

Hon. Renee Forgensi Minarik, Acting J.S.C.

JUSTICE MINARIK COURT RULES - APPENDIX B

[date]

[Plaintiff's Counsel]

[Defendant's Counsel]

Re: v
Index No.

Counselors:

Pursuant to 22 NYCRR 202.26, Pretrial Conference, the Court shall conference with you on _____ at _____ **a.m./p.m.** at the chambers at the Hall of Justice, 99 Exchange Blvd., 5th Floor, Rochester, to discuss the following, where applicable:

- 1) simplification and limitation of the issues;
- 2) obtaining admission of fact and of documents to avoid unnecessary proof;
- 3) amendment of pleadings or bill of particulars;
- 4) limitation of number of expert witnesses; and
- 5) insurance coverage.

Prior to trial, please provide the following, if you have not already done so:

- 1) Marked pleadings
- 2) Copies of Bills of Particulars and the Demands therefor;
- 3) Copies of discovery responses and the Demands therefor;
- 4) Expert reports;

- 5) A list of PJI charge requests, citing section numbers and titles, as well as non-PJI charge requests, typed, with appropriate sources and citations;
- 6) A one-page statement containing a description of the case and your contentions;
- 7) A witness list.

Kindly notify us immediately if you will need any devices to assist you during trial. In addition, be prepared to provide us with a verdict sheet that all parties have agreed upon.

Thank you in advance for your cooperation.

Very truly yours,

Renée Forgens Minarik
Acting Supreme Court Justice

RFM/nms

JUSTICE MINARIK COURT RULES - APPENDIX C

, 2017

Re:

Index No.

Dear Counsel:

Enclosed please find the Court's **Jury Trial and Trial Preparation Conference Order** in the above-captioned matter. The Order provides that Jury Selection is to commence on the ____ day of _____, 2017 at _____ a.m./p.m with the trial to commence _____, 2017.

The Jury Trial and Trial Preparation Conference Order provides you with important information you need to properly prepare for trial. Please read the entire Order carefully.

Some of the items contained in the Order are:

1. Time limits on voir dire, opening and closing.
2. Request to Charge and Special Verdict Sheets are due a week before trial and must be submitted to the Court in Word Perfect format (a digital copy and a hard copy).
3. Preclusion or other motions regarding the admissibility of evidence or the testimony of expert or other witnesses must be brought at least one week prior to trial. Responses are due two days before jury selection.
4. Jury selection will be by the struck method with non-designated alternates.

A detailed Trial Schedule is attached to this letter.

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Page 2.

If you have any need for special equipment for trial (e.g. blackboard, shadow box, easel, audio-video equipment) please contact my clerk Bianca Gauthier (371-3695) the week of jury selection to be sure that any such equipment is available when you need it.

Thank you for your anticipated co-operation.

Very truly yours,

Renée Forgens Minarik
Acting Supreme Court Justice

Enclosures

PRESENT: THE HONORABLE RENEE FORGENSI MINARIK
Acting Justice of the Supreme Court

SUPREME COURT
STATE OF NEW YORK MONROE COUNTY

JURY TRIAL AND TRIAL
PREPARATION CONFERENCE
ORDER

Plaintiff,

Index #

vs.

Defendant.

The parties having indicated their readiness for trial by jury, it is now hereby ORDERED:

1. Trial Date:

That selection of the Jury in the above-captioned matter shall be held on _____, the _____ day of _____, 2017 at _____ a.m./p.m.

Trial of this matter shall commence at 9:30 a.m. on _____, the _____ day of _____, 2017.

When a matter has been set for trial pursuant to a this Order, it is for all purposes a DAY CERTAIN and will not be adjourned or postponed without the written consent of the Court.

Counsel is advised to report to Justice Minarik's Chambers (4th Floor, Hall of Justice, Rochester, New York) for a **Pre-trial Conference, one-half hour prior to the start of jury selection/trial**. The purpose of the conference is to give the parties a final opportunity to settle the matter, to set the trial schedule and to discuss any scheduling problems, to review any anticipated evidentiary problems, and to entertain any pre-trial applications.

2. Pleading/Prior Orders

Four (4) days prior to jury selection, a copy of all pleadings, including a copy of the Complaint and Answer, the Demand and Bill of Particulars, and any other relevant discovery and/or trial-related orders of the Court shall be submitted by Plaintiff, if they were not previously submitted.

3. Witness/Doctors Testimony

If not disclosed previously, **four (4) days prior to jury selection**, each party shall provide the Court and opposing counsel, a **list of all witnesses** whom the party expects to call. The list shall identify those whom the party expects to call in person and those who shall be called through deposition. A courtesy copy of such deposition testimony for the Court is required. As to any experts, the witness list shall also provide the information required CPLR §3101(d).

If the matter involves the **testimony of a doctor or doctors**, the parties must video tape the doctor's testimony in advance of trial or secure the in person testimony of the doctor. If the trial has been scheduled more than 30 days after the Note of Issue is filed, the matter will NOT be adjourned because of the unavailability of a doctor.

4. Exhibits:

Prior to, or immediately following Jury Selection the parties shall, with the Court Reporter, mark all exhibits for identification (numbers for plaintiff; letters for defendant); and shall, at the time of trial, submit to the Court a list of all such exhibits. All parties are herein ordered to consult with each other and, to the extent possible, enter into a stipulation governing the authenticity and admissibility of exhibits.

Whenever a subject matter will reasonably require itemization, computation or illustration, counsel may prepare such diagrams, photographs or other similar exhibits as may reasonably be necessary for a clear presentation of the subject matter. The week before trial, counsel should make known to the Court any requests for special equipment (e.g. blackboard, shadow box, easel, markers, audio-video equipment). The Court will not be responsible for equipment not timely requested.

If the parties can agree on facts or matters not in dispute, they should submit an appropriate stipulation to the Court at the time of trial.

5. Trial Memorandum of Law:

Four (4) days prior to jury selection, each party shall submit a trial **memorandum of law**. The memorandum shall be brief (less than 5 pages unless otherwise allowed by the Court) but comprehensive, and must address each question of law that the party expects to arise at trial including, but not limited to, the elements of proof necessary for each cause of action. Each party shall provide opposing counsel a copy of the Trial Memorandum. An answer or reply memorandum is not required but is permissible.

6. Requests to Charge:

Four (4) days prior to jury selection, counsel must provide the Court with case-specific paragraph references to **Pattern Jury Instruction**, as well as any requested jury verdict **interrogatories**. The PJI charge and the jury verdict sheet shall be provided to the Court in

written form and attached to an e-mail addressed to rminarik@nycourts.gov (WordPerfect format).

Your failure to provide these items may waive your right to object to the Court's charge to the jury until after it is presented. (The Court is aware that additional or different charges may be necessary based on the developments or testimony at trial. On this basis, supplemental requests to charge will be permitted.)

In preparing the request to charge, counsel should be aware that the Court will use an opening charge to the jury which will include information and directions to the jury as set forth in the Pattern Jury Instructions. The Court will generally charge, either in the opening or closing charge, paragraphs, 1:1 to 1:13; 1:13A; 1:14; 1:20; 1:21; 1:22; 1:24; 1:25; 1:27; 1:28; 1:36; 1:37; 1:38; 1:39; 1:40; 1:41; 1:90; 1:91 and 1:97, when appropriate. You do not need to formally request that these paragraphs be charged.

7. Jury Questionnaire:

Generally Jury Questionnaires will, to the extent the Commissioner of Jurors has provided them to the jury panel, be used by the Court in the selection of the jury. These questionnaires will be provided just before jury selection unless Counsel has requested a longer period of review well in advance of trial. Also, upon prior application to the Court, at least 10 days prior to jury selection, or upon the Court's own initiative, prospective jurors may be asked to complete a more detailed questionnaire supplied by the Court after consultation with the trial attorneys.

8. Jury Selection / Time Limitation:

Voir Dire will be judicially supervised. The Court will commence the jury selection process with an introduction of the attorneys and the case to the jury pool. The identity of the parties and the list of possible witnesses may be made known to the Jury. **Each side will be limited to 45 minutes** of questioning during Voir Dire unless the Court has specifically, in the presence of all counsel, set other time limitations.

9. Jury Selection Process: Struck Method / Non-Designated Alternates:

Unless otherwise ordered by the Court, the Jury shall be selected by the Voir Dire procedures known as the "Struck Method". Under the Struck Method, the panel selected is large enough so that the number of cause-free prospective jurors is equal to the ultimate jury size desired (including alternates), plus the total number of peremptories that can be exercised by all parties. The attorneys then exercise their peremptory challenges by alternately striking names from a list of jurors until the number of jurors left equals six plus the number of alternates. If there are still too many jurors after everyone has exercised peremptories, the first eight names seated are selected to sit as the jury. The alternates will not be designated unless counsel has objected to non-designated alternates prior to jury selection. At the conclusion of the trial, and after the jury charge, six jurors will be randomly selected to deliberate. Any remaining juror(s) will be considered alternates and, at the discretion of the Court, be dismissed. A detailed

description of the Struck Method Rules is **enclosed** for your review.

10. Limitations of Opening and Closing:

Counsel is advised that the Court will impose **a time limit of 15 minutes on each attorney for their opening statements to the Jury. Closing statements shall be limited to 30 minutes each.** Upon request, the time limit may be modified at the Pre-Trial Conference. The time limits will be strictly adhered to.

11. Motions - in limine; Summary Judgment

Unless otherwise specifically ordered by the Court, any motions in limine must be filed and served at least seven (7) days before trial. All papers responsive thereto must be filed and served at least four (4) days before trial. The parties shall also submit copies of all such motions and responsive papers to chambers. No additional reply papers will be allowed. Such motions shall be on submission unless otherwise directed by the Court. The moving and opposition papers on such motions shall be no longer than 6 pages.

Unless otherwise specifically ordered by the court, summary judgment motions may not be made more than thirty (30) days after the filing of the note of issue, except with leave of the court on good cause shown.

(Optional)

12. Trial Preparation Conference Date

A conference on the matter will be held on _____, 2017 at _____ a.m. / p.m. for the Court to review counsel's compliance with this Order, to discuss trial schedule and, possible settlement. Trial counsel must attend this conference.

Dated:

Rochester, New York

HON. RENEE FORGENSI MINARIK
Acting Supreme Court Justice

JUSTICE MINARIK COURT RULES - APPENDIX D

RENÉE FORGENSI MINARIK SUPREME COURT JUSTICE

JURY SELECTION STRUCK METHOD/ NON-DESIGNATED ALTERNATES

(1) Unless otherwise ordered by the Court, selection of jurors shall be made from an initial panel of prospective jurors, who shall be seated randomly and who shall maintain the order of seating throughout the voir dire.

(2) Counsel first shall ask questions generally to the prospective jurors as a group to determine whether any prospective juror has knowledge of the subject matter, the parties, their attorneys or the prospective witnesses. A response from a juror that requires further elaboration may be the subject of further questioning of that juror by the Court (or, in the Court's discretion, by counsel) on an individual basis. Counsel may exercise challenges for cause at this time or in the event of newly discovered information, after questioning as set forth in (3) below.

(3) After the general questioning has been completed by the Court, in an action with one Plaintiff and one Defendant, counsel for the Plaintiff initially shall question the prospective jurors, followed by questioning by Defendant's counsel. Each counsel may be permitted to ask follow-up questions on newly revealed information. In cases with multiple parties, questioning shall be undertaken by counsel in the order in which the parties' names appear in the caption.

A challenge for cause shall be made by counsel to any party as soon as the reason therefor becomes apparent. At the end of the period, all challenges for cause to any prospective juror on the panel must have been exercised by respective counsel.

(4) After challenges for cause are exercised, the number of prospective jurors remaining shall be counted. If that number is less than the total number of jurors to be selected (including alternates) plus the maximum number of peremptory challenges allowed by the Court for all parties (such sum shall be referred to as the "jury panel number"), then additional prospective jurors shall be added until the number of prospective jurors not subject to challenge for cause equals the "jury panel number". Counsel for each party then shall question each replacement juror pursuant to the procedure set forth in paragraph 3.

(5) After all prospective jurors in the panel have been questioned, and all challenges for cause have been made, counsel for each party, one at a time beginning with counsel for the Plaintiff, shall then exercise allowable peremptory challenges by alternately striking a single juror's name from a list or ballot passed back and forth between or among counsel until all challenges are exhausted or waived. In cases with multiple Plaintiffs and/or Defendants, peremptory challenges shall be exercised by counsel in the order in which the parties' names appear in the caption, unless following that order would, in the opinion of the Court, unduly favor a side. In that event, the Court, after consulting with the parties, shall specify the order in which the peremptory challenges shall be exercised in a manner that shall balance the interests of the parties.

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An attorney who waives a challenge may not thereafter exercise a peremptory challenge. Any *Batson* or other obligations shall be resolved by the Court before any of the struck jurors are dismissed.

(6) After all peremptory challenges have been made, the trial jurors (including non-designated alternates) then shall be selected in the order in which they have been seated from those prospective jurors remaining on the panel.

The Jurors shall then be sworn and excused until the start of trial.