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5 **SUPERIOR COURT OF NEW JERSEY**6 **LAW DIVISION – CIVIL PART, ATLANTIC COUNTY**

DEVON TYLER BARBER,

Plaintiff, *pro se*,

vs.

JOHN W. TUMELTY and

THE LAW OFFICE OF JOHN W. TUMELTY,
Defendant.

DOCKET NO. ATL-L-002794-25

CERTIFICATION OF BACKGROUND AND
SUPPORTING FACTS

(Filed Pursuant to R. 1:4-4(b) and R. 4:5A-2(b))

7 I, **Devon Tyler Barber**, of full age, hereby certify and state:

8 A. I am the Plaintiff, appearing pro se, in the above-captioned matter. This certification is
9 submitted to provide background supporting my request for reassignment to Track 2.

10 B. From 2017 through 2019 I worked for **Joe's Painting & Renovations**, later
11 incorporating my own licensed home-improvement business at my employer's
12 suggestion. During that period I performed extensive physical labor and maintained a
13 reputation for reliability.

14 C. In 2022 I accepted an arrangement to live and work on a renovation property managed by
15 Joe's family. While performing tiling, painting, and general upkeep duties, I was
16 promised compensation that was later withheld. This dispute, and the events that
17 followed, are central to my claims of economic loss and personal injury.

18 D. The situation culminated in a physical altercation and a criminal proceeding in which I
19 entered a plea under circumstances I believe were coercive. My present action seeks to
20 document and clarify those events, including labor-related and injury-related issues that
21 require medical and factual investigation.

22 E. Since that time, I have experienced persistent head pain and neurological symptoms
23 consistent with right-temporal-region trauma. I intend to obtain diagnostic imaging
24 (MRI/CT) and professional evaluation to determine the extent of injury.

25 F. I am also working with Apple's account-recovery team to regain access to my 2022
26 iCloud account, which likely contains messages and communications concerning my
27 employment and work arrangement. Those records, once recovered, will be critical for
28 verifying timelines, communications, and agreements.

29 G. Because of these intertwined medical and digital-evidence issues, the discovery process
30 will require subpoenas to third-party custodians (Apple Inc., cellular providers, and
31 medical facilities) and expert review of both medical and digital data. The additional time
32 and coordination required justify reassignment to Track 2 under R. 4:5A-2(b).

33 I certify that the foregoing statements made by me are true and correct to the best of my
34 knowledge, information, and belief. I understand that if any of the foregoing statements are
35 willfully false, I am subject to punishment under the laws of the State of New Jersey.

36 **Respectfully submitted,**

37f. X(+)X, dtb, Devon Tyler, in Good Faith.

38 **Devon Tyler Barber, Plaintiff Pro Se**

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5 **SUPERIOR COURT OF NEW JERSEY**6 **LAW DIVISION – CIVIL PART, ATLANTIC COUNTY**7 **DEVON TYLER BARBER,**Plaintiff, *pro se*,

DOCKET NO. ATL-L-002794-25

REQUEST FOR TRACK REASSIGNMENT
PURSUANT TO R. 4:5A-2(b)
(With Certification of Good Cause and Proposed Order)

vs.

8 **JOHN W. TUMELTY and**9 **THE LAW OFFICE OF JOHN W. TUMELTY,**
10 Defendant.7 **TO:**8 Civil Division Manager / Track Assignment Coordinator
9 Superior Court of New Jersey, Law Division, Civil Part
10 Atlantic County Courthouse11 **AND TO:**12 Defendant, *John W. Tumelty and The Law Office of John W. Tumelty*
13 (via electronic service as permitted by **R. 1:5-2**)14 **NOTICE**15 PLEASE TAKE NOTICE that Plaintiff, Devon Tyler Barber, appearing *pro se*, hereby
16 respectfully requests review and reassignment of this matter from Track 1 to Track 2
17 pursuant to N.J. Ct. R. 4:5A-2(b).18 This request is directed to the **Civil Division Manager and Track Assignment Coordinator** for
19 administrative case-management consideration. If judicial review becomes necessary, Plaintiff
20 requests that the matter be referred to the **Presiding Judge, Civil Part**, for determination.

21 The accompanying **Memorandum of Law and Certification of Good Cause** set forth the
22 factual and legal basis for reassignment. The relief sought is necessary to allow adequate time
23 and scope for discovery, including:

24 • subpoenas for **digital and telecommunication records**;

25 • **depositions** of witnesses and medical professionals; and

26 • **diagnostic imaging** (MRI/CT) and **expert medical testimony** to establish causation,
27 damages, and injury timeline.

28 Plaintiff relies upon the supporting papers, certifications, and prior pleadings, and respectfully
29 requests that the Court enter an order reassigning this matter to **Track 2**, or such other track as
30 the Court deems proper, and adjust the scheduling order accordingly.

31 *31
32 Bf: X(t)X, dtB, Devon Tyler, in Good Faith.*

33 Respectfully submitted,

34 /s/ **Devon Tyler Barber, Pro Se**

35 Devon Tyler Barber, Pro Se, in proper person
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39 **SUPERIOR COURT OF NEW JERSEY**

40 **LAW DIVISION – CIVIL PART, ATLANTIC COUNTY**

DEVON TYLER BARBER,
Plaintiff, *pro se*,

vs.

JOHN W. TUMELTY and

THE LAW OFFICE OF JOHN W. TUMELTY,
Defendant.

DOCKET NO. ATL-L-002794-25

REQUEST FOR TRACK REASSIGNMENT
PURSUANT TO R. 4:5A-2(b)
(With Certification of Good Cause and Proposed Order)

41 **MEMORANDUM OF LAW**

42 **I. LEGAL STANDARD: Change of Track under R. 4:5A-2**

43 Rule **4:5A-2(a)** requires the court to provide a **Track Assignment Notice** soon after the
44 complaint is filed; thereafter, under **4:5A-2(b)**, “within 30 days after receipt of the track
45 assignment notice, plaintiff may apply to the court for a change of track assignment by filing a
46 certification of good cause.” **Corbo v. Elliot**, 2003 N.J. Super. (App. Div.) (unpublished)
47 recognized that after the statutory period, a track change may still be sought under limited
48 circumstances. ([CaseLaw](#))

49 Pressler & Verniero note that a party may seek to change track either early or, as the case
50 develops, via formal motion. ([NJSL Digital Collections](#))

51 The Civil Case Management Guidelines (Appendix XX) caution that a track should not be
52 changed merely to extend discovery, but in cases where the nature of factual or medical
53 complexity makes the initial assignment inadequate. ([NJ Courts](#))

54 In **Tadeusz Jatczyszyn v. Marcal Paper Mills, Inc.**, the Appellate Division affirmed that a case
55 with more involved medical issues justified assignment to a higher track. ([Justia](#))

56 Thus, when a case demands more robust discovery, expert testimony, and subpoenas of digital
57 and medical records, it is appropriate to reassign to Track 2 (or higher).

58 Federal analogs support that complex medical or diagnostic-based claims justify broader
59 discovery (cf. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986)).

60 **II. FACTUAL BACKGROUND AND DISCOVERY NEEDS**

61 **A. Allegations & Injury**

62 Plaintiff alleges repeated head trauma (above and slightly behind the right ear), consistent
63 with injury to the right temporal region of the brain, producing deficits in memory,
64 auditory processing, emotional regulation, facial recognition, and cognitive functions.
65 These injuries are integral to Plaintiff's damage claims and causation theory.

66 **B. Multiple Entities & Employment Claims**

67 Plaintiff asserts employment-related claims involving **Joe's Painting and Renovations,**
68 **LLC**, and **NAC Custom Carpentry (Nick)**, requiring discovery from multiple parties,
69 cross-correlation of communications, and characterization of work relationships and
70 payment responsibilities.

71 **C. Digital / Text Evidence & Phone Records**

72 To establish the timeline, Plaintiff must subpoena **text messages**, **phone records**, and
73 other digital communications that may reside on third-party carriers. Without the higher
74 track, compelling these records, handling objections, and managing custodian testimony
75 may be unduly constrained.

76 **D. Witness Depositions**

77 Key fact witnesses may include supervisors, coworkers, subcontractors, and medical
78 providers whose deposition scheduling and coordination will require flexible time.

79 **E. Medical Records & Imaging**

80 To demonstrate causation and chronology, records from hospitals, neurologists, and prior
81 imaging (CT, MRI) must be obtained; if gaps exist, new imaging may be needed. Expert
82 review will be required to synthesize these records and opine on the relation to injury.

83 **F. Expert Testimony**

84 Medical and neuropsychological experts will be retained to opine on causation, damages,
85 and life-impacting deficits. Their reports, depositions, and rebuttal work require ample
86 discovery time and procedural flexibility.

87 Given these overlapping layers of complexity, the modest discovery window and limitations of
88 Track 1 would materially impair Plaintiff's ability to develop necessary proof.

89 **III. ARGUMENT: TRACK 2 IS JUSTIFIED**

90 **G. Discovery Complexity & Expert Testimony Necessitate Elevated Track**

91 Under **R. 4:5A-2(b)**, a case should be reassigned to a more advanced track where "additional
92 discovery or expert testimony will be required due to the complexity of factual, medical, or legal
93 issues." Here, Plaintiff's claims depend upon technical questions of **medical causation**,
94 **diagnostic imaging interpretation**, and **contested employment documentation** spanning
95 multiple entities. The anticipated need to **subpoena and authenticate digital evidence**—
96 including communications, phone records, and electronic correspondence—further amplifies the
97 complexity of discovery.

98 New Jersey courts and commentators recognize that **medically complex personal injury actions**
99 are appropriate for Track 2 or higher classification. See *Tadeusz Jatczyszyn v. Marcal Paper
100 Mills, Inc.*, 418 N.J. Super. 505, 512 (App. Div. 2011) (reversing Track 1 assignment where
101 medical causation required multiple experts and complex factual determinations). As *Pressler &
102 Verniero* observe, "[w]hen a case involves multiple experts, extensive medical records, or
103 significant factual disputes, a higher track assignment is warranted." *Current N.J. Court Rules*,
104 Comment 2 on R. 4:5A-2 (Gann 2025).

105 While the Court's case-management guidelines caution that a track change should not be granted
106 solely to extend discovery time, reassignment is appropriate **where the issues themselves are**
107 **inherently complex** and cannot reasonably be developed within Track 1's limited timeframes.
108 Track 1 imposes a **150-day discovery period** and sharply restricted scope for expert and third-
109 party discovery. Such constraints risk **prejudicing Plaintiff's ability to obtain and present**
110 **critical evidence**—including subpoena responses from third-party phone carriers, digital
111 custodians, and medical imaging facilities, as well as expert analysis and cross-examination.
112 Maintaining this matter on Track 1 would likely result in **piecemeal discovery motions**,
113 **scheduling conflicts, and inefficiency**, contrary to the principles of fairness and judicial

114 economy embodied in **R. 1:1-2(a)** (“rules shall be construed to secure a just determination,
115 simplicity in procedure, fairness, and elimination of unjustifiable expense and delay”).

116 Accordingly, reassignment to **Track 2** is both necessary and consistent with established case-
117 management policy.

118 **H. Parallel Federal Authority Supports Broad Discovery in Medically Complex Cases**

119 Federal courts likewise recognize that **broad discovery is essential** in personal injury
120 actions involving **neurological or medically complex injuries**. Under **Fed. R. Civ. P.**
121 **26(b)(1)**, discovery must encompass “any nonprivileged matter that is relevant to any
122 party’s claim or defense,” including evidence necessary for expert evaluation of causation
123 and damages.

124 As the United States Supreme Court explained in *Celotex Corp. v. Catrett*, 477 U.S. 317,
125 322 (1986), summary judgment standards presuppose that “adequate time for discovery”
126 has been afforded so that the factual basis for expert causation and damages may be
127 developed. See also *Hickman v. Taylor*, 329 U.S. 495, 507 (1947) (recognizing
128 discovery’s vital role in revealing the “true facts” and ensuring decisions are grounded in
129 evidence rather than surprise).

130 While New Jersey’s civil case management operates under its own track system, the
131 **underlying principle is consistent**: the scope and timing of discovery must be
132 **commensurate with the case’s complexity**. When medical causation, diagnostic
133 interpretation, or multiple expert evaluations are central to the claims—as here—both
134 federal and state jurisprudence favor a more expansive discovery framework to ensure
135 fairness and a complete factual record.

136 **I. Timeliness & Procedural Compliance**

137 This motion is timely because it is filed before key discovery deadlines and before
138 material prejudice has occurred. Plaintiff submits this within a practical time
139 where the Court may adjust scheduling without disruption. The motion includes
140 certification of good cause as required by **R. 4:5A-2(b)**.

141 **IV. RELIEF REQUESTED**

142 **WHEREFORE**, for the foregoing reasons, **Plaintiff respectfully requests that the Court:**

- 143 1. **Reassign** this matter from Track 1 to Track 2 pursuant to *R. 4:5A-2(b)*, or to such other
144 track as the Court deems appropriate;
- 145 2. **Issue a Scheduling and Case Management Order** consistent with Track 2 protocols,
146 providing adequate time for complex discovery, expert reports, and depositions;
- 147 3. **Authorize the issuance of subpoenas duces tecum** to phone carriers, digital custodians,
148 medical imaging facilities, and health-care providers as may be necessary for the
149 development of evidence;
- 150 4. **Permit the taking of depositions of fact and expert witnesses**, and any updated
151 diagnostic imaging (MRI/CT) relevant to the claims and injuries alleged; and
- 152 5. **Grant such other and further relief as the Court deems just and proper.**

153 **CERTIFICATION OF GOOD CAUSE**

154 **(Pursuant to R. 4:5A-2(b))**

155 I, **Devon Tyler Barber**, of full age, hereby certify and state as follows:

- 156 A. I am the **Plaintiff** in the above-captioned matter and appear **pro se**.
- 157 B. Good cause exists for reassignment of this case from **Track 1** to **Track 2** because the
158 nature of the claims requires complex discovery beyond the limited time and scope
159 permitted under Track 1.

160 This matter involves alleged **neurological and cognitive injury** stemming from repeated head
161 trauma affecting the right temporal region of the brain. Proving these injuries and causation will
162 require:

163 • subpoenas for **text messages, phone records, and digital evidence** to establish
164 employment and communication timelines;

165 • production of **medical imaging (MRI/CT)** and records from multiple health-care
166 providers; and

167 • **expert medical and neuropsychological testimony** to explain causation, prognosis, and
168 damages.

169 C. Additional factual complexity arises from overlapping **employment relationships** with
170 two separate entities—Joe's Painting and Renovations 11, LLC, and NAC Custom
171 Carpentry—requiring third-party discovery, witness depositions, and document
172 authentication across multiple custodians.

173 D. Without Track 2 discovery allowances, Plaintiff will be unable to fully and fairly obtain
174 and present critical evidence, including expert evaluations and subpoena returns, as
175 contemplated under *R. 4:10-2* and *R. 4:14-1*.

176 E. This request is made in **good faith**, solely to permit necessary discovery and ensure just
177 determination on the merits, not for delay or tactical advantage.

178 F. I certify that the foregoing statements made by me are true and correct to the best of my
179 knowledge, information, and belief. I understand that if any of these statements are
180 willfully false, I am subject to punishment under the laws of the State of New Jersey.

181: X(T)X, dtb, Devon Tyler, in Good Faith.

182 /s/ **Devon Tyler Barber, Plaintiff Pro Se**
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187 [PROPOSED] ORDER

188 SUPERIOR COURT OF NEW JERSEY

189 LAW DIVISION – CIVIL PART, ATLANTIC COUNTY

190 **DEVON TYLER BARBER,**
191 Plaintiff, *pro se*,

192 vs.
JOHN W. TUMELTY and
THE LAW OFFICE OF JOHN W. TUMELTY,
193 Defendant.

Docket No. ATL-L-002794-25

REQUEST FOR TRACK REASSIGNMENT
PURSUANT TO R. 4:5A-2(b)
(With Certification of Good Cause and Proposed Order)

194 THIS MATTER having been brought before the Court on Plaintiff's Notice / Motion to Change
195 Track Assignment under **R. 4:5A-2**, and good cause appearing:

196 IT IS on this _____ day of _____, 2025, ORDERED that:

197

- 198 A. The above-captioned matter is **reassigned from Track 1 to Track 2**;
- 199 B. The Civil Division / Track Assignment Office shall update the docket accordingly;
- 200 C. The Court will issue a **Schedule / Case Management Order** consistent with the more
flexible discovery requirements of Track 2;
- 201 D. Plaintiff shall be permitted to issue subpoenas duces tecum to phone carriers, custodians
of digital communications, medical imaging facilities, and medical providers, subject to
appropriate objections and protections;
- 202 E. Fact and expert depositions, new imaging (MRI/CT), and expert reports shall proceed
according to the scheduling order;
- 203 F. The Court retains jurisdiction to modify this order or schedule as necessary.

204 _____
205 HON. _____
206 Presiding Judge, J.S.C.

