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**SUPERIOR COURT OF NEW JERSEY**

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

**DEVON TYLER BARBER,**

DOCKET NO. ATL-L-002794-25

Plaintiff, *pro se*,

## CERTIFICATION OF BACKGROUND AND SUPPORTING FACTS

VS.

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

JOHN W. TUMELTY and

**THE LAW OFFICE OF JOHN W. TUMELTY,  
Defendant.**

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

- A. I am the Plaintiff, appearing pro se, in the above-captioned matter. This certification is submitted to provide background supporting my request for reassignment to Track 2.
- B. From 2017 through 2019 I worked for **Joe's Painting & Renovations**, later incorporating my own licensed home-improvement business at my employer's suggestion. During that period I performed extensive physical labor and maintained a reputation for reliability.
- C. In 2022 I accepted an arrangement to live and work on a renovation property managed by Joe's family. While performing tiling, painting, and general upkeep duties, I was promised compensation that was later withheld. This dispute, and the events that 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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**SUPERIOR COURT OF NEW JERSEY**

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

**DEVON TYLER BARBER,**

DOCKET NO. ATL-L-002794-25

Plaintiff, *pro se*,

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

VS.

JOHN W. TUMELTY and

**THE LAW OFFICE OF JOHN W. TUMELTY,  
Defendant.**

TO:

Civil Division Manager / Track Assignment Coordinator  
Superior Court of New Jersey, Law Division, Civil Part  
Atlantic County Courthouse

**AND TO:**

Defendant, *John W. Tumelty* and *The Law Office of John W. Tumelty*  
(via electronic service as permitted by **R. 1:5-2**)

## NOTICE

PLEASE TAKE NOTICE that Plaintiff, Devon Tyler Barber, appearing pro se, hereby respectfully **requests review and reassignment of this matter from Track 1 to Track 2** 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 *Bf: X(t)X, dtB, Devon Tyler, in Good Faith.*  
32 Respectfully submitted,

33  
34 /s/ **Devon Tyler Barber, Pro Se**

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

## **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)**

## **MEMORANDUM OF LAW**

#### **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.

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

181     /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  
191 **DEVON TYLER BARBER,**  
192 Plaintiff, *pro se*,

193 vs.  
**JOHN W. TUMELTY and**  
**THE LAW OFFICE OF JOHN W. TUMELTY,**  
194 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)

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

197 IT IS on this \_\_\_\_\_ day of \_\_\_\_\_, 2025, ORDERED that:

- 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.

