

## Suffolk County Supreme Court Judges' Rules

Justice Ralph T. Gazzillo

Part 6. Hon. Ralph T. Gazzillo

### Motion Practice

*Return Dates/Submissions:* All motions made in cases assigned to Judge Gazzillo must be calendared for submission Thursdays. Unless adjourned by the Court, all motions appearing on the Court's Thursday motion calendar shall be marked submitted. Appearances are not required on any motion unless oral argument has been requested and granted. All requests for oral argument must be made in accordance with 22 NYCRR 202.8(d).

*Papers:* Timely interposition of all papers in accordance with the CPLR is required, as the Court will not consider the merits of any papers, including opposition cross-moving or reply, which have been interposed in an untimely manner. All motion papers must be submitted through Special Term. No courtesy copies are to be submitted unless specifically requested by the Court.

*Adjournments:* Adjournments of motions will be governed by 22 NYCRR 202.8(e). All proposed adjourn dates must fall on a Thursday. All adjournments on consent must be received by Chambers no later than 3:00 pm on the day prior to the return date. If the consent of all appearing parties is not obtainable, an oral application for an adjournment on or before the date the motion is returnable must be made by the party seeking the adjournment, upon due notice to all parties.

*E-mail adjournment requests:* All adjournments on consent shall be effectuated by e-mail. The e-mail address for the Court is [sufgazzillo@nycourts.gov](mailto:sufgazzillo@nycourts.gov). The name of the case and the index number should be entered in the subject line of the e-mail along with the activity that is being adjourned, i.e., conference (including the type of conference). The agreed upon adjourned date should be included in the body of the e-mail. All parties should be copied on the e-mail and the sender should request a "read receipt." Upon receiving confirmation that the Court has read the e-mail, the adjournment request will be deemed granted. Phone calls to confirm receipt of requests should only be made if problems or error messages are encountered. This e-mail address may only be used for adjournments. Messages sent to this address that are not adjournment related will not receive a response.

*Settled or Withdrawn Motions:* The Court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice. The failure to do so may result in sanctions.

## Conferences

*Scheduling:* Conferences shall be calendared for the first and third Thursday of each month.

*Appearances:* Appearance by a person with knowledge of the facts and vested with authority to make binding dispositions is required. Non-appearances will not be countenanced by the Court and may subject the non-appearing party to one or more of the sanctions attendant with defaults. (see, 22 NYCRR 202.27; 22 NYCRR Part 130-2).

*Adjournments:* All applications whether on consent or over objection must be communicated to Chambers no later than 3:00pm on the day prior to the scheduled conference. Any application to the Court seeking an adjournment must be done on prior notice to all parties.

*E-mail adjournment requests:* All adjournments on consent shall be effectuated by e-mail. The e-mail address for the Court is [sufgazzillo@nycourts.gov](mailto:sufgazzillo@nycourts.gov) . The name of the case and the index number should be entered in the subject line of the e-mail along with the activity that is being adjourned, i.e., motion, cross motion, etc. The agreed upon adjourned date should be included in the body of the e-mail. All parties should be copied on the e-mail and the sender should request a “read receipt.” Upon receiving confirmation that the Court has read the e-mail, the adjournment request will be deemed granted. Phone calls to confirm receipt of requests should only be made if problems or error messages are encountered. This e-mail address may only used for adjournments. Messages sent to this address that are not adjournment related will not receive a response.

*Preliminary Conferences:* Preliminary conferences will be scheduled by the Court in accordance with 22 NYCRR 202.12 and 202.19 which will be conducted by DCM located in room A 362, 1 Court Street, Riverhead, New York. Counsel for the respective parties are thus directed to appear at 9:30am on the preliminary conference ready for said conference. All matters, including those raised by pending motion and those contemplated by 22 NYCRR 202.19, shall be undertaken at the preliminary conference.

*Compliance Conferences & Pre-trial Conferences:* These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR 202.19.

## Trials

*Jury Trials:* A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. Thereat, counsel shall supply the Court with marked pleadings, amendments thereto and all bills of particulars served. Counsel shall further provide the Court with a list of proposed jury charges and proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court, the stenographer and each adverse party. Counsel shall advise the Court of the number of witnesses to be called, and if any experts, shall provide the information required by the CPLR 3101(d)(1)(I).

All hospital records and other items in evidence over fifteen (15) pages must be paginated before use in the trial. In all malpractice cases each attorney in anticipation of charge conference and verdict sheet preparation must have the departure and causation testimony located in the trial transcript available for the courts review.

*Non Jury Trials:* Non-Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. In addition thereto, for Non-Jury trials, counsel shall submit a proposed order framing the issues to be tried. The parties shall be required to provide a transcript of the trial. The filing of a note of issued is a condition precedent to the commencement of any trial.

### Miscellaneous Matters

*Contempt Applications:* Appearance by all parties is mandatory.

*Compromise Applications:* All applications for Court approval or a proposed compromise of an infant or other disabled party's claim must be submitted through the Special Term, with proof of service on all remaining parties. Compliance with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67 and a proposed distribution of net amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. The Court will not accept medical reports/affidavits executed more than six months prior to the submission date. The report must indicate whether the injured plaintiff has fully recovered, and if not, the nature and extent of the injuries and course of future treatment. Since the Court may direct that notice of the application be given to all persons who possess claims against the proceeds recoverable under the compromise, including those with statutory liens, the names and addresses of all such persons and the amount of their respective claims must be set forth in the petition. If no person has asserted such a claim, the petition must so state. Once the submissions are complete, an appearance date shall be scheduled by the Court.

*Hearing/Inquests:* All hearing and or inquests emanating from cases in the inventory of IAS Part 6 shall be scheduled by the Court. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest.

*Ex Parte Communications with Chambers:* Except to the limited extent permitted by these rules and by the rules set forth at 22 NYCRR 100.3 ex parte communications with the Court or any member of its staff by telephone or otherwise, is strictly prohibited. All inquiries regarding the scheduling of conferences or return dates of motions should be directed to the Calendar Department at (631) 852-2355, as direct telephone communication with Chambers is prohibited except for the most exigent circumstances.

*Discovery Disputes:* With respect to cases already assigned to this Court at the time that a discovery dispute arises, no motion with respect to the dispute shall be made without a prior conference with the Court, which may be obtained by submission of a letter application, not

exceeding one (1) page in length.

With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention which leads to the assignment to this Court, no opposition papers shall be served until there has been a prior conference with the Court, which may be obtained by letter application, not exceeding one (1) page in length. The application for a discovery conference may be made by the movant or by the opposing counsel; however, the application must be made within eight (8) days of service of the motion. Counsel must obtain permission from Chambers prior to the submission of a letter application. Failure to request a discovery conference may result in the denial of the motion.

The Court endeavors to resolve discovery disputes promptly, usually by conference, which may be held telephonically or in person. In the event that the dispute is not resolved, the Court will set an expedited briefing schedule. Counsel shall, prior to requesting a conference, meet in person to discuss the issues and endeavor to resolve or limit them, prior to seeking judicial intervention.

#### *E-Filings*

For all documents filed by electronic means in matters assigned to Judge Gazzillo, the moving party shall simultaneously submit to chambers working copies of all motion papers submitted by all parties (including motion, opposition, reply, all exhibits and memoranda) prior to the return date of the motion. Working copies received piecemeal will be rejected and the return date of the motion will be administratively adjourned until properly assembled and compliant working copies are received by the Court. All e-filings shall be in compliance with all Statutes and Rules applicable to such filings, including but not limited to CPLR §2101 and 22 NYCRR 202.5-a, 202.5-bb as well as any amendments thereto.

Thank you for your courtesies and co-operation.