



**STATE OF NEW YORK
UNIFIED COURT SYSTEM
HON. DANIEL MARTIN**
*Court of Claims
Acting Supreme Court Justice*
CHAMBERS
One Court Street
Riverhead, New York 11901
(631) 852-2422 Fax: (631) 852-2834

Timothy J. Mattimore
Principal Law Clerk

Diane J. Raia
Secretary

PART 9 - RULES & PROCEDURES

Amended as of August 26, 2015

MOTION PRACTICE

1. All motions assigned to Justice Martin are on submission and shall be made returnable on Tuesdays only and shall be marked submitted on said return date unless an adjournment has been granted. Timely interposition of all papers in accordance with the CPLR is required.
2. Motions may be adjourned on consent with a letter indicating same via facsimile to chambers. All proposed adjourn dates must fall on a Tuesday. When consent of all parties cannot be obtained, an application for an adjournment must be made personally before the court on the return date of the motion. Counsel must, upon appearance, affirm that all non-consenting parties received notice that such application would be made to the court. If a non-consenting party fails to appear to oppose the application, the court may entertain a further application for costs against such non-consenting, non appearing party.
3. Consistent with 22 NYCRR §202.8 (f), no motion related to disclosure or bills of particulars may be made until a conference before this court has been conducted. The purpose of the conference will be to resolve the dispute between the parties, whether by stipulation or by order of the court. Counsel should be prepared to argue his or her position with regard to the disputed disclosure on the date of the conference. In the event the dispute cannot be resolved, the court may grant permission to make an appropriate motion addressed to the disputed disclosure. The motion **MUST** make note that a conference was held and permission was granted to make the motion.

Prior to any request for a conference related to disclosure or bills of particulars, however, counsel shall advise the court, in writing and on notice to all adversaries, of the specific items of disclosure or particulars in dispute. This written communication shall contain an

affirmation by counsel that there has been a good faith attempt to resolve the dispute without judicial intervention. Opposing counsel shall advise the court, in writing and on notice to all other parties, of their positions with respect to such items or particulars. The court will thereupon address the issues presented either in writing or by telephone conference.

4. If a party intends to orally argue either for or against continuation of a temporary restraining order, a stay, a preliminary injunction or any other emergency relief or immediate intervention, the party must contact chambers and opposing parties via facsimile (3) business days prior to the return date to inform the court of such intention.
5. For all e-filed matters, a working copy of each party's papers are required by the return date pursuant to any Uniform Court Rule.
6. All applications for orders or judgments submitted to Part 9 for signature must be bound in a separate litigation cover. Failure to do so will result in the return of the motion papers unsigned.

CONFERENCES

1. All compliance conferences will be scheduled on a Tuesday and conducted in accordance with the provisions of 22 NYCRR 202.19.
2. Adjournments of conferences must be on consent and may be obtained in advance from chambers followed by a letter with date given or on consent from the Part Clerk on the date of appearance.
3. Counsel appearing for a compliance conference in which disclosure remains incomplete, after (6) adjournments, may not obtain an adjournment from the Part Clerk. Counsel must conference the case before the court.
4. No party may file a Note of Issue and Certificate of Readiness without first having entered into a Compliance Conference Order certifying that disclosure has been completed and the case is ready for trial. No order shall be entered certifying a case as ready "subject to" the completion of disclosure at a future date without express permission of the Court.
5. Appearances shall be made by counsel of record or attorneys acting in an "Of Counsel" capacity. In either case, attorneys must be fully familiar with the facts of the case and have full authority to settle and/or enter appropriate stipulations.

FORECLOSURE PROCEEDINGS

All Judgements for Foreclosure and Sale submitted to Part 9 must include the following language;

ORDERED, ADJUDGED AND DECREED that in the event any scheduled foreclosure sale is cancelled or postponed (other than at the direction of the referee), the plaintiff shall forthwith compensate the referee, pursuant to CPLR 8003, in the amount of \$100 for each cancelled or postponed sale. Said payment shall constitute a cost to the plaintiff which shall be added to the indebtedness due under this Judgment of Foreclosure and Sale; and it is further

ORDERED, ADJUDGED AND DECREED that plaintiff serve the notice of the foreclosure sale and any adjournments upon the Supreme Court Calendar Clerk; and it is further

ORDERED, ADJUDGED AND DECREED that the referee complete and file the Foreclosure Action Surplus Monies form with the Supreme Court Calendar Clerk and the Suffolk County Clerk within Thirty (30) days of the foreclosure sale; and it is further

ORDERED, ADJUDGED AND DECREED that the referee submit proof of deposit of any surplus monies with the County Treasurer, with the Supreme Court Calendar Clerk and the Suffolk County Clerk within Thirty (30) days of the date of closing title.

NOTE: All applications for orders or judgments submitted to Part 9 for signature must be bound in a separate litigation cover. Failure to do so will result in the return of the motion papers unsigned

Thank you for your courtesies and cooperation.