

PART 24 – RULES, PRACTICES, AND PROCEDURES

JUSTICE SALLY E. UNGER (Acting)

Supreme Court of the State of New York, Civil Term

25-10 Court Square

Long Island City, New York 11101

Part Clerk/Courtroom (718) 298-1821

Chambers (718) 298-0241

Part 24 Email: QSCPart24@nycourts.gov

Presiding Justice: Hon. Sally E. Unger	IAS Motion Support Office (718) 298-1009
Principal Law Clerk: Beverly George, Esq.	Ex Parte Support Office (718) 298-1018
Part Clerks: Michael Papanicolao	Trial Scheduling Part (718) 298-1048
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GENERAL

1. In addition to the Rules of Part 24, Counsel are advised to familiarize themselves with the recently promulgated Rules of the Chief Administrative Judge of the State of New York contained in AO/270/2020, which took effect on February 1, 2021.
2. All appearances shall be by remote access via Microsoft TEAMS until further notice.
3. All communication and correspondence with the Court must be done by email to: QSCPART24@nycourts.gov or by telephone at 718-298-1821. The Court will not be accepting any correspondence via mail or fax.
4. All questions regarding motions, adjournments, calendar calls, and scheduling should be made via email to: QSCPart24@nycourts.gov and NOT to chambers.
5. Part 24 is entirely an e-filing part. Justice Unger does not accept working copies of motions/documents. DO NOT MAIL IN ANY COURTESY COPY OF PAPERS as they will be discarded.
6. For the most up-to-date information concerning the handling of matters before the 11th Judicial District Civil Term (Queens Supreme Court), please refer to: <http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/index.shtml>

COMMUNICATION WITH PART 24 AND CHAMBERS

1. Counsel and litigants (represented or self-represented) are advised that they must not engage in any ex parte communications with Justice Unger, her Principal Court Attorney and/or the Part Clerks.

2. Absolutely no telephone inquiries concerning motions or applications may be made to chambers. Such inquiries or concerns shall be addressed to the Part Clerk at (718) 298-1821 or via email to: QSCPart24@nycourts.gov.
3. Do not send any letters, documents, papers, mail, or facsimile unless expressly permitted by these Practice Rules or by prior approval of the Court.
4. **All communications with chambers shall include all parties.**

ELECTRONIC FILING

1. Pursuant to Administrative Order AO-115-20/NYSCEF, all cases assigned to Part 24 are required to be electronically filed through the New York State Courts E-Filing (NYSCEF) system. Attorneys are expected to familiarize themselves with NYSCEF procedures at: <http://iapps.courts.state.ny.us/nyscef/Login>. For more information on e-filing rules, visit: <http://www.nycourts.gov/courts/1jd/supctmanh/efiling.shtml>.
2. “eTrack” is a case tracking service that enables parties to track active Supreme Court cases and receive notice of scheduled appearances. Parties and/or their Counsel must be registered for the eTrack service for all Part 24 cases. To register or log-in, please visit: <http://iapps.courts.state.ny.us/webcivil/etrackLogin>.
3. Documents requiring Justice Unger’s signature, including proposed orders and stipulations, must be e-filed with NYSCEF and sent via email to: QSCPart24@nycourts.gov.

ORDERS TO SHOW CAUSE and EMERGENCY/ESSENTIAL APPLICATIONS

1. An Emergency Judge is available remotely in the Queens County Civil Court building, courtrooms 301 and 302, located at 89-17 Sutphin Boulevard, Jamaica, NY 11435 to hear emergency/essential applications. The application must be accompanied by a separate “Emergency Affidavit” which does not pray for the underlying relief requested but rather addresses:
 - i. why the application must be entertained forthwith, and
 - ii. why the application could not have been brought to the Court’s attention earlier.
2. Requests for emergency processing will not be entertained unless submitted in person by the requesting attorney.
3. Filing parties are advised to consult Uniform Rules for the New York State Trial Courts 202.7(f) concerning notification.
4. For up-to-date information regarding Orders to Show Cause and Ex-parte Orders visit: <http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/exparte.shtml>.

MOTION CALENDAR

1. All motions shall be made returnable on **Thursdays at 10:00 a.m.**
2. The Court may administratively reschedule any application or motion noticed for a holiday or a day on which the part is closed. Information will be available on e-courts. Should the Part administratively reschedule, the movant will be responsible for notifying all parties of the administratively rescheduled date and providing proof of same to the Part on the rescheduled adjournment date.
3. The movant and/or cross-movant will be required to submit a Motion Submission Form https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/motion_submission_form.pdf by email to: QSCPart24@nycourts.gov **no later than two (2) business days [forty-eight (48) business hours] prior to the calendared date and time.**
4. Stipulations regarding pending motions must be e-filed at least two (2) business days [forty-eight (48) business hours] prior to the calendared date and time.
5. All motion papers submitted to the Court shall comply with 22 NYCRR §202.5. Additionally, Counsel are advised to adhere to the length of papers set forth in 22 NYCRR 202.8-b. FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN THE REJECTION OF THE NONCOMPLIANT SUBMISSION.
6. Each electronically-submitted memorandum of law, affidavit and affirmation exceeding 4500 words shall include bookmarks providing a listing of the document's contents and facilitating easy navigation by the reader within the document. (See 22 NYCRR §202.5(a)(2)).
7. In any case where a motion is "Marked Off" for non-compliance with the Part Rules such as improper notice, or failure to appear in court as required by the Part Rules, a new motion for the original relief sought may be filed in accordance with the Part Rules. A motion to Restore, Renew or Reargue is NOT required.
8. The parties shall notify the Court immediately if they are withdrawing any pending motion or application in the event a matter is settled or discontinued. Stipulations of settlement or discontinuance shall immediately be sent via facsimile or email to chambers and filed with the Court.

Discovery Motions

Pursuant to Administrative Order dated June 22, 2020, all Discovery related motions are strongly discouraged. On any discovery-related motion or application, attorneys are encouraged to conference the issues among themselves with the expectation that the issues will be resolved by stipulation. All stipulations must indicate that the motion and any cross-motion, is/are being withdrawn pursuant to the stipulation and must be signed by the attorneys and e-filed before the scheduled time and date of the calendar. Any items

of discovery not specifically identified as outstanding at the time of the stipulation resolving the motion are deemed waived.

No motion relating to disclosure or a Bill of Particulars will be accepted without an affirmation of good faith, as outlined in 22 NYCRR §202.7.

Summary Judgment Motions

1. Counsel are advised to familiarize themselves with 22 NYCRR §202.8-g concerning Summary Judgment Motions and note the following when submitting motion papers.
 - a. A separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried, must be annexed to the notice of motion.
 - b. Opposing papers must include correspondingly numbered paragraphs responding to each numbered paragraph in the statement of the moving party and, if necessary, additional paragraphs containing a separate short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.
 - c. Each numbered paragraph in the statement of material facts required to be served by the moving party will be deemed to be admitted unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.
 - d. Each statement of material fact by the movant or opponent pursuant to subdivision (a) or (b) including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion.

Appearances

1. The Court, in its discretion, shall schedule oral arguments after submission of the motions. Any requests for oral argument must be indicated on the Motion Submission form and will be held virtually via Microsoft Teams.
2. Counsel who appears before the Court must be familiar with the case, be fully prepared and authorized to discuss and resolve all issues. Failure to comply with this rule may be treated as a default for purposes of 22 NYCRR §202.27 and/or may be treated as a failure to appear for purposes of Rule 130.2.1 (See 22 NYCRR §202.1).
3. The movant's failure to appear will result in the motion being marked off the calendar. The opponent's failure to appear will result in the motion being submitted without opposition.

ADJOURNMENTS OF MOTIONS

1. Motions may be adjourned on consent via the Motion Submission Form https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/motion_su

[bmission form.pdf](#) no later than two (2) business days [forty-eight (48) business hours] prior to the calendared date and time.

2. Absent extenuating circumstances, consent adjournments shall be limited to one (1). Thereafter, if the parties are seeking any further adjournment, they **MUST** contact the Part Clerk via email to: QSCPart24@nycourts.gov.

CONFERENCES AND DISCOVERY DISPUTES

1. At this time all conferences will be conducted virtually via Microsoft TEAMS.
2. Prior to making a discovery-related motion i.e. Motions to Vacate the Note of Issue, Motions to Restore, Motions to Strike Pleadings, Motions to Demand Bill of Particulars, Motions to Preclude, the parties are directed to send an email to: QSCPart24@nycourts.gov with a courtesy copy to ALL parties to schedule a virtual conference. The email should include a summary of the discovery related issues.
3. Prior to the virtual conference, all the parties must properly complete the **TEAMS Scheduling Form**: www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/skype_scheduling.pdf and return it via email to: QSCPart24@nycourts.gov.
4. If the parties are exploring settlement of the case and would like a settlement conference for the sole purpose of exploring resolution of the case, the parties may send an email to: QSCPart24@nycourts.gov with a cc to ALL to request a virtual settlement conference.

PRELIMINARY and COMPLIANCE CONFERENCES

Parties must consult with each other pursuant to 22 NYCRR §202.23 prior to a preliminary or compliance conference.

The Court has directed that Preliminary Conferences and Compliance Conferences will be held by the parties completing a stipulation setting forth all discovery deadlines. Please click on the following link for more information.

- a. [Preliminary Conference Part](#)
- b. [Compliance Conference Part Memo](#)

Counsel are advised to adhere to discovery schedule(s) pursuant to 22 NYCRR §202.20e.j

VIRTUAL CONFERENCES – GENERAL PROTOCOL

1. All lawyers and litigants should identify themselves at the beginning of each appearance.
2. All microphones should be muted when not in use.
3. Courtroom rules apply – speak one at a time and do not interrupt other speakers, including the Judge.

4. Recording the proceeding by anyone other than the Judge, Court Reporter or other Court personnel, is **PROHIBITED**.
5. Judges and attorneys should make every effort to appear via video, with cameras engaged. Telephonic appearances should be limited to litigants who are unable to appear via video.
6. Maintain the decorum of an in-person courtroom. Lawyers and litigants should appear from an office or quiet space. Background noise is detrimental to the conditions necessary to ensure an accurate transcript and diminishes the decorum of the proceeding.
7. If an individual is unable to appear via video, that individual should contact the part via email to: QSCPart24@nycourts.gov.

TRIALS

Please note that there are no jury trials being held at this time.

Be Prepared

1. Upon assignment to Part 24, all parties appearing for trial must be familiar with the case, ready, and authorized to participate in settlement discussions and/or proceed to trial. (See 22 NYCRR §202.27).
2. The trial will be conducted on a continuous daily basis until its conclusion. Tort actions are generally bifurcated. The Court expects that any trial on damages will follow immediately after a verdict determined liability.
3. No adjournments or delays during trial will be accepted absent exigent circumstances.

Pre-Marking Of Exhibits

1. Counsel are directed to consult with each other prior to trial and pre-mark exhibits, pursuant to 22 NYCRR §202.34.

Pre-trial Memoranda & Exhibit Book:

1. Counsel are directed to consult 22 NYCRR §202.20h concerning the submission of pre-trial memoranda, exhibit book and requests for jury instructions.
2. Prior to the commencement of trial, all Counsel must submit marked pleadings, copies of the bill of particulars, a witness list and an exhibit list via email to: QSCPart24@nycourts.gov.

Motions In Limine

On the first appearance in the Part for trial, any party intending to make a motion *in limine* shall submit a brief written affirmation setting forth the nature of the application and any supporting statutory or case law. Document Submission

Plaintiff's Counsel shall furnish the Court with copies of:

1. Marked pleadings as required by CPLR 4012;
2. A copy of any statutory provisions (not only the citations) in effect at the time the cause of action arose upon which either the plaintiff or defendant relies, including, but not limited to the applicable sections of the Vehicle & Traffic Law;
3. The bill(s) of particulars;
4. All expert reports relevant to the issues;
5. All reports, depositions and written statements which may be used to either refresh a witness' recollection and/or cross-examination the witness;
6. If any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination) you must, well in advance, provide the Court and your adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury; and
7. The actuarial table you wish the Court to rely upon, if you intend the Court to charge the jury on life expectancy of a litigant.

Pre-trial Conferences

Pursuant to 22 NYCRR §202.26, Counsel shall be prepared to discuss all matters as to which there is disagreement between the parties and settlement of the matter, and the Court may require the parties to prepare a written stipulation of undisputed facts.

1. Counsel must also be prepared to:

- a) alert the Court as to all anticipated disputed issues of law and fact, and provide the Court with citations to all statutory authority upon which Counsel will rely. Counsel should provide copies to the Court and to your adversary of the case law upon which you intend to rely;
- b) stipulate to undisputed facts and the admissibility of clearly admissible documents and records;
- c) provide proposed Jury Charges & proposed Jury Verdict Sheet, both of which must be in type written form;
- d) alert the Court to any anticipated *in limine* motions or evidentiary objections which Counsel believes will be made during the course of the trial;
- e) provide the Court with a copy of all prior decisions and orders which may be relevant to the *in limine* applications;

- f) discuss scheduling as well as the number of witnesses to be called at trial, and the estimated length of the trial;
- g) alert the Court as to any anticipated problems regarding the attendance at trial of parties, attorneys or essential witnesses and any other practical problems which the Court should consider in scheduling;
- h) alert the Court to any anticipated requests for a jury instruction relating to missing witnesses and/or documents; and
- i) alert the Court to any anticipated request for apportionment as to alleged culpable nonparties pursuant to CPLR Article 16.

Virtual Summary Bench Trials

Information pertaining to virtual summary bench trials in Queens County can be found at: [Summary Bench Trials - 11 JD Queens Civil Supreme | NYCOURTS.GOV](https://www.nycourts.gov/courts/11jd/supreme/civilterm/index.shtml)

1. Trial Objections and Arguments: If a lawyer wishes to make an objection, it can be accomplished by standing and saying the word, “objection”, and by adding thereto up to three more words so as to state the generic grounds for the objection, such as “hearsay,” “bolstering,” “leading,” or “asked and answered.” If the Court believes further argument is required, it will be requested by the Court. If you believe that further argument is necessary and the Court has not requested it, ask permission to approach the bench.
2. Courtroom Comments and Demeanor: All remarks should be directed to the Court. Comments should not be made to opposing counsel. Personal remarks, including namecalling and insults, to or about opposing counsel will not be tolerated. Remember do not try to “talk over” each other; only one person speaks at a time or the record of the proceeding will be incomprehensible. Simple requests (e.g., a request for a document or an exhibit), should be made in a manner which does not disrupt the proceedings or your adversary. Ask for permission to approach the bench when necessary.
3. Examination of Witnesses: Do not approach a witness without permission of the Court. Allow the witness to complete his/her answer to your question before asking another question. DO NOT interrupt the witness in the middle of an answer, unless it is totally unresponsive in which event you should seek a ruling from the Court. Direct examination, cross, redirect and re-cross are permitted. However, the Court does not ordinarily permit further examination of a witness after re-cross.

SUMMARY JURY TRIALS

In light of COVID –19 and the global pandemic, please check the Queens Supreme Court – Civil Term webpage for updates regarding Summary Jury Trials. <http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/index.shtml>

SETTLEMENTS AND DISCONTINUANCES

Counsel, including self-represented litigants are under a continuing obligation to notify the Court as promptly as possible in the event that an action is settled, discontinued, or otherwise disposed of, or if a case or motion has become wholly or partially moot, or if a party has died or filed a petition in bankruptcy. Such notification must be made to the Court in writing (22 NYCRR §202.28).

Submissions to the Court must be made to: QSCPart24@nycourts.gov and e-filed via AO115-20/NYSCEF. All Stipulations of Discontinuance must be accompanied by proof of filing with the County Clerk and payment of the appropriate fee [CPLR §8020(d)(1)].

INFANT COMPROMISE ORDERS

Applications for Infant Compromise Orders shall be made pursuant to CPLR §1207(a) and shall be supported by the documentation required under CPLR §1208 and 22 NYCRR §202.67. Applications submitted without the appropriate documentation will be denied. Infant compromise hearings will be scheduled by the Court and the parties will be notified of the hearing date by email.

All Counsel desiring the checklist for documents and information that must be submitted should get the checklist and the link for the PDF is contained herein: [ICO CheckList2.PDF](#)

ALTERNATIVE DISPUTE RESOLUTION

1. Should Counsel wish to proceed with a settlement conference before a justice or judge other than Justice Unger, Counsel may jointly request the Court grant a separate settlement conference. The request may be made at any time in the litigation. (See 22 NYCRR §202.29)
2. If at any point, the parties decide that they would benefit from the ADR program, they should write a joint letter to the Court asking to be referred to ADR. In that letter, they should state whether they prefer discovery to be stayed or continued during the mediation process.
3. The Court may also order parties to the ADR program without the parties' request or consent.
4. For more information regarding the ADR program, visit: [Alternative Dispute Resolution \(ADR\)](#) or contact the ADR Coordinator, Linda Dardis, Esq. at: gscadr@nycourts.gov.

Updated as of February 17, 2021