

## SUPREME COURT - NASSAU COUNTY

### IAS PART 13 – PART RULES & PROCEDURES

Justice: **HON. VITO M. DESTEFANO**  
Law Secretary: **MADELEINE PETRARA, ESQ.**  
Secretary: **DONNA KIRKLAND**  
Part Clerk: **JOHN CIALONE**

Phone: **(516) 493-3176**  
Courtroom: **(516) 493-3179**  
Fax: **(516) 493-3391**

#### **I ADJOURNMENTS**

##### **A. Motions and Status Conferences:**

1. Applications to adjourn conferences or motions must be made prior to the conference date or return date of the motion. Applications for adjournments are to be made on the Request for Adjournment Form which can be obtained through chambers. The Request for Adjournment Form is to be filled out by counsel and faxed to chambers. The form requires counsel to provide, among other things, information concerning proposed adjourn dates agreed to by all parties, the date the RJI was purchased, the date preliminary conference was held, the date and nature of the most recent conference, the date the Note of Issue was or is expected to be filed, and the reason for the requested adjournment. If the application is granted, a letter confirming same shall be faxed to chambers. Absent extraordinary circumstances, no request for an adjournment will be granted if the application is made later than 2:00 p.m. of the business day prior to the conference or motion return date.
2. Adjournment requests that are left on the Chamber's Voice Mail shall be disregarded.
3. Adjournments requested because of engagement of counsel must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR § 125.1, as well as a request for adjournment form.

4. The foregoing rules regarding adjournments are applicable to all motions (*cf.* 22 NYCRR 202.70 Rule 16[c]).

B. **Preliminary Conference:**

1. At the preliminary conference, attorney or parties, if not represented, must obtain and review the rules of this part. You are responsible to become familiar with the part rules and to comply with them.
2. **Discovery deadlines, Certification Deadlines and Note of Issue deadlines, will be enforced. Deadlines may not be extended absent prior approval by the court.**
3. **The parties, or their attorneys, if represented, shall provide the court with copies of all pleadings served.**

II **MOTIONS**

A. **Pre-Motion Conferences:**

1. Prior to making or filing any motions, counsel for the moving party **MUST** arrange for a conference call to be held with his/her adversary and the Court to discuss the issues involved and the possible resolution thereof. Counsel fully familiar with the matter and with authority to bind their clients **MUST** be available to participate in the conference.
2. If the matter can be resolved during the conference, an order consistent with such resolution may be issued.
3. This rule does not apply to applications for counsel to be relieved.

B. **Submission of the Motion**

1. Counsel are not required to appear on the submission date unless directed by the Court..
2. Motions are to be served and filed in conformity with CPLR 2214. In addition, the various branches of the motion as delineated in the Notice of Motion or Order To Show Cause are to be preceded by a number or letter which corresponds to a number or letter in the supporting affirmations and affidavits containing the numbered paragraphs dealing with the particular relief sought.

3. Upon any motion for summary judgment, other than a motion made pursuant to CPLR 3213, the parties shall comply with Rule 19-a of the Rules of the Commercial Division of the Supreme Court set forth at 22 NYCRR 202.70. **This Part Rule makes the directive contained in Rule 19-a concerning the Statement of Material Facts mandatory unless otherwise directed by the court.** All dispositive motions shall be accompanied by a complete set of pleadings.
4. No sur-reply affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.
5. Counsel are requested to provide the court with self-addressed, stamped envelopes with the submitted papers in order to facilitate delivery of the court's decision.

C. **Applications for Temporary Injunctive Relief**

Applications for temporary injunctive relief must be made in conformity with 22 NYCRR 202.7(f). In addition, the Court requires that the party seeking temporary injunctive relief give the opposing side 24 hours notice in advance of presentment of the Order to Show Cause to the court. Notice should be given by telephone, facsimile and/or e-mail, if practicable.

D. **Interim Partial or Full Settlement**

If all or part of a submitted motion is settled, a proposed order with notice of settlement (on at least 10 days notice), or a signed waiver of settlement, shall be submitted with a copy to be conformed along with a self-addressed, stamped envelope. Such order shall be accompanied by a letter setting forth the date the motion was submitted, what aspects of the Motion have been settled and what issues remain to be decided. A copy of the stipulation settling such issues shall be forwarded to the Court. If the motion is resolved, in whole or part, on the record, counsel shall obtain such transcript so that same can be "so ordered", unless the Court otherwise directs.

### III COURT APPEARANCES

- A. Generally, calendar call is at 9:30 am. If your case is scheduled for 9:30 A.M. that means your case should be ready to be heard at that time. If your case is scheduled for 9:30 A.M. but not ready to be heard by 10:15

A.M., due to other court appearances or factors beyond your control, absent a prior arrangement with the Court, your case will be heard at a time that the court determines to be convenient. In no way does the foregoing alter or limit any of the options available to the Court in the event of an attorney or litigant's failure to timely appear (22 NYCRR 130-2.1, 202.27).

- B. Attorneys and unrepresented litigants must alert the Court Officer or Court Clerk of their presence and complete a sign-in sheet. If counsel must also appear before another Judge, he/she must advise the Part Clerk or Court Officer where he/she can be reached. All counsel and litigants are directed to appear for each and every conference (including preliminary, status and compliance conferences).
- C. All conferences will be held in the order in which **all** attorneys have checked in.

#### IV COMMUNICATION WITH CHAMBERS

- A. In all communications with chambers by letter, the title of the action, full names of the parties and index number shall be set forth, with copies simultaneously delivered to all counsel.
- B. Copies of correspondence between counsel shall **not** be sent to the Court except as these Part Rules and 22 NYCRR 202.7 permits.
- C. The Court will not accept telefax communications or submissions without prior permission.
- D. No out of court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, and, if applicable, the Law Guardian, submitting the executed settlement agreement/stipulation or certifying that such agreement/stipulation has, in fact, been executed.
- E. The court will never accept **ex parte** communications on any substantive issue.

#### V SANCTIONS

The Court will not consider a sanctions application unless the moving party first seeks withdrawal or discontinuation of the offending act or action or

demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

## **VI TRIAL RULES**

Rules applicable to the conduct of trials are contained in 22 NYCRR 202.25 and are supplemented by the attached Trial Rules.

## **VII MISCELLANEOUS**

- A. **CONFERENCES/TRIAL** - If there are any outstanding motions (submitted or pending) at the time of the conference/trial the Law Secretary and/or Judge must be so informed of same that day; the submission date must be provided by counsel. Copies of such motions should be available to the Court at the time of such conference.
- B. **ATTORNEYS OF RECORD** - Attorneys who have appeared in the matter are to make all appearances until they are relieved by the Court or a Consent to Change Attorneys has been filed with Part 19 and with the Clerk of the Court.
- C. **STAFF** - The Court functions through the aid and assistance of the courtroom and Chambers staff. They are expected to treat attorneys, litigants and others in a dignified and civil manner. In addition, they are to be treated in a civil and professional manner at all times.
- D. **In the absence of an emergency, no Order to Show Cause will be heard after 2:00 P.M. All Orders to Show Cause will be heard the next day, at 9:30 A.M.**

REQUEST FOR ADJOURNMENT FORM - Part 15

**HON. VITO M. DESTEFANO**

PHONE: 493-3176

**THIS FORM MUST BE FILLED OUT COMPLETELY**  
**INCOMPLETE FORMS WILL BE DISREGARDED**

CASE NAME \_\_\_\_\_ INDEX# \_\_\_\_\_

RJI DATE \_\_\_\_\_ DATE ISSUE JOINED \_\_\_\_\_ LAST COURT APPEARANCE \_\_\_\_\_

NUMBER OF PRIOR ADJOURNMENTS (OF THIS PARTICULAR EVENT): \_\_\_\_\_

DATE ON COURT CALENDAR \_\_\_\_\_ REQUEST (at least 3) ADJ. DATES \_\_\_\_\_

MOTION, CONFERENCE OR OTHER \_\_\_\_\_

IF MOTION, NATURE OF RELIEF SOUGHT \_\_\_\_\_

REASON FOR ADJOURNMENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DISCOVERY COMPLETED (Y/N) \_\_\_\_\_ WAS N/I FILED? \_\_\_\_\_ DATE TO FILE N/I \_\_\_\_\_

ON CONSENT? \_\_\_\_\_ PARTIES TO BE ADVISED OF ADJOURNMENT DATE? \_\_\_\_\_

ATTORNEY REQUESTING ADJOURNMENT:

NAME \_\_\_\_\_ PHONE \_\_\_\_\_

ADVERSARY'S CONTACT INFO:

NAME \_\_\_\_\_ PHONE \_\_\_\_\_

**ALL REQUESTS MUST BE RECEIVED VIA FAX (516-493-3391) BEFORE 2:00 P.M.**  
**OF THE BUSINESS DAY PRIOR TO THE SCHEDULED APPEARANCE DATE.**