

SUPREME COURT : NASSAU COUNTY – PART 26
HON. SHARON M.J. GIANELLI, J.S.C.
PART RULES & PROCEDURES – January, 2017

Law Secretary: Steven M. Jaeger, Esq.
Secretary: Kevin Brady
Courtroom Clerk: Ann Marie Sullivan

Chambers: 516-493-3286
Fax: 516-493-3386 (not for filing of papers)
Courtroom: 516-493-3282 Courtroom: Located on the 4th Floor West
Chambers: Located on the 2nd Floor

Unless otherwise ordered, matters before the Court shall be conducted in accordance with the following rules, as well as the Uniform Civil Rules for the New York State Trial Courts:

COURT PERSONNEL

Court personnel. The court functions with the aid and support of the courtroom and chambers personnel. The court and the personnel assigned to the court will treat counsel, litigants and other persons present with dignity and courtesy which is indispensable to the proper administration of justice and the court expects the court personnel to be treated in like manner.

COMMUNICATIONS WITH CHAMBERS

- A. No *ex parte* communications with the Court shall be permitted and will be disregarded.
- B. Communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.
- C. E-mail correspondence with the chambers staff is not permitted unless it is in response to an e-mail from chambers.
- D. Telephone calls, except as set forth below, are permitted only in emergency situations requiring immediate attention.
- E. Faxes to chambers are not permitted without prior authorization or as set forth below.

REQUESTS FOR ADJOURNMENTS (see: page 5 of the Part Rules)

- A. Motions and conferences cannot be adjourned without the consent of all parties and the express approval of the Court.
- B. Compliance and Certification Conferences are to be held only on Monday, Tuesday, or Wednesday, unless the Court orders otherwise
- C. Motions may be made returnable on any weekday.

- D. Applications on consent are to be made on the attached Request for Adjournment Form, which must be filled out completely and faxed to chambers **no later than 3:00 pm** on the business day before the scheduled date. If the application is granted, a confirming letter must be immediately faxed to chambers with copies to all other counsel appearing in the action.
- E. Absent extraordinary circumstances, adjournment requests left on chambers' voicemail will be disregarded.
- F. Adjournments requested due to actual engagement of counsel shall be accompanied by an Affirmation of Actual Engagement.
- G. If all parties do not consent to an adjournment, application may be made by the requesting party scheduling a conference call with the Court, with **all** counsel participating, **no later than 3:00 pm** on the business day before the scheduled date or application may be made in person on the scheduled date. If the application is granted by conference call, a confirming letter must be immediately faxed to chambers with copies to all other counsel appearing in the action.
- H. Preliminary Conference adjournments are to be addressed to the DCM Clerk and not to chambers.

MOTIONS

A. Pre-Motion Conference:

1. Except in an emergency situation, prior to making or filing any discovery or non-dispositive motion, counsel for the prospective moving party shall discuss the issue(s) in question with opposing counsel. If the issue(s) cannot be resolved, counsel for the prospective moving party **must** arrange for a conference call to be held with opposing counsel and the Court to discuss the issue(s) involved and possible resolution. All counsel on the conference call must be fully familiar with the matter and with authority to bind their client.
2. If the matter can be resolved during the conference, an order consistent with the resolution may be issued.
3. If the matter cannot be resolved, the motion papers must state that this Rule has been fully complied with.
4. This Rule does not apply to motions to be relieved or for summary judgment.

B. Submission of Motions:

1. Appearances are not required on motion return dates unless the Court orders otherwise. Any party may request oral argument no later than the submission date and, if the Court deems oral argument necessary, the Court will notify counsel of the date for oral argument.
2. E-filed motions: A courtesy copy of all motions, opposing papers, and reply papers submitted by E-file, including affidavits of service, shall be provided to the Court.
3. All exhibits must be clearly tabbed.
4. Except for good cause shown, no affidavit or affirmation shall exceed twenty (20) pages (double spaced) in length. Papers in excess of the above may be returned to counsel.

5. No sur-reply papers or letters will be accepted or considered by the Court without prior leave of the Court.
 6. Submission of Orders and Judgments: Such documents are to be submitted to the Clerk's Office and not to chambers.
 7. Every party in a special proceeding or a motion requesting dispositive relief is required to submit a separate memorandum of law in support of its respective position. Papers are to be submitted through the Clerk's Office.
- C. Application for a Stay or Temporary Restraining Order:
1. An Order to Show Cause seeking any injunctive relief, including a stay or TRO, must be made in accordance with 22 NYCRR 202.7(f). The moving party shall advise the Court as soon as practicable of counsel's intent to make such application.
 2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made at a conference with all parties present. Failure to apply for such extension shall result in the automatic vacatur of the stay or TRO, unless the Order to Show Cause provides otherwise.
 3. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and an affirmation explaining in detail the nature of the emergency. In addition, the movant shall be prepared to appear in Court as soon as practicable to make a record, if the Court requires same.

APPEARANCES

- A. Counsel shall appear promptly at 9:30 am for all conferences or appearances unless otherwise ordered by the Court.
- B. All appearances shall be made by counsel with knowledge of the facts and with authority to enter into stipulations and/or dispositions which bind their respective clients. The failure to comply with this rule or the failure to appear in timely fashion may subject counsel to one or more of the sanctions authorized by 22 NYCRR §202.27 and or 22 NYCRR Part 130-2. Attorneys shall comport themselves in accordance with the rules established in 22 NYCRR §700.4, the Rules of Professional Conduct, and the NYS Standards of Civility. Self-represented litigants are subject to the same rules of practice as attorneys appearing in the Part.
- C. If there are any newly submitted or pending motion(s) at the time of a conference/trial, the Law Secretary and/or Judge must be so informed.
- D. Compliance conferences may be conducted via telephone appearance if a request on consent of all parties is made by fax letter at least three (3) business days before the scheduled conference and said request is granted by the Court.
- E. Counsel appearing at the certification conference must have authority to enter into stipulations and/or dispositions which bind their respective clients or have telephone access to their respective clients and be prepared to enter into good faith settlement discussions with the Court.

TRIALS

- A. All motions *in limine*, including any supporting statutory or case law, shall be in writing and shall be made immediately upon assignment of the trial to the Court. All motions *in limine* addressing the preclusion of evidence, testimony or other trial related matters must be brought to the attention of the court immediately upon counsel becoming aware of such matter to be addressed, in order to avoid applications on the eve of or during trial, absent extraordinary circumstances.
- B. Jury Trials. A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. At the trial conference, counsel shall supply the Court with marked pleadings, amendments thereto, all bills of particulars served, and any relevant orders or stipulations. Each counsel shall further provide the Court with a list of proposed jury charges and the contentions of each party and proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court and to the stenographer. Counsel shall notify the Court of their inability to stipulate to the admission of any exhibits to be offered at trial. Counsel shall further advise the Court of the witnesses to be called, and if any be experts, shall further provide the information required by CPLR 3101 (d)(1)(I).
- C. Counsel shall have copies of all exhibits which are expected to be introduced into evidence for opposing counsel.
- D. Complete copies of all deposition transcripts to be utilized at trial are to be made available to the Court and the witness.
- E. Non-jury trials. Non-jury trials are subject to scheduling upon forty-eight hours notice. A conference with the Court shall proceed the commencement of all non-jury trials at which counsel shall provide the following: 1) A copy of marked pleadings, amendment thereto, bills of particulars, and any relevant orders or stipulations; 2) A list of pre-marked exhibits; and identification of those on which counsel could not agree as to their introduction at trial; 3) A list of witnesses and if any be experts, the information required by CPLR 3101(d)(1)(I); and 4) pre-trial memoranda of law and motions *in limine*. The parties are encouraged to provide the Court with the transcript of a non-jury trial.

MISCELLANEOUS RULES

- A. Attorneys of record must continue to appear for their clients until such time as the Court has relieved counsel of that obligation or until a stipulation substituting counsel has been filed with the Clerk of the Court. See, CPLR §321.
- B. If an action is settled or discontinued or the parties otherwise stipulate to the resolution of an issue in dispute, counsel shall advise the court forthwith by sending the court a copy of the stipulation. The original of any stipulation of settlement or discontinuance must be filed with the Clerk of the Court.
- C. Hearings/Inquests: All hearings and/or inquests emanating from cases in the inventory of Part 26 shall be scheduled by this Court or by the Justice presiding in CCP. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest, unless otherwise ordered by the Court.

SUPREME COURT : NASSAU COUNTY – PART 26
HON. SHARON M.J. GIANELLI, J.S.C.
ADJOURNMENT REQUEST FORM – January, 2017

THIS FORM IS REQUIRED FOR ALL ADJOURNMENT REQUESTS
ALL REQUESTS MUST BE ON CONSENT OF ALL PARTIES

Case Name: _____
Index No.: _____/_____
Current Calendar Date: ____/____/_____

Requested Adjourn Dates (Please provide 3):
1) ____/____/_____ 2) ____/____/_____ 3) ____/____/_____

Purpose of Appearance:
COMPLIANCE _____ CERTIFICATION _____
MOTION _____ HEARING _____

Reason for Request (Affirmation of Actual Engagement attached, if required):

CONTACT INFORMATION

Party Requesting Adjournment (circle one): PLAINTIFF / DEFENDANT

Attorney Contacting Court: _____

Phone: (____) _____ - _____
Fax: (____) _____ - _____

Do you have the consent of ALL opposing counsel? (circle one)
YES / NO

***NOTE: ALL REQUESTS MUST BE RECEIVED BY THE SECRETARY VIA FAX
AT (516) 493-3386, BEFORE 3:00 PM OF THE PRIOR BUSINESS DAY.**

A confirming letter, in full compliance with this Part's Rules, must be received by the Secretary via Fax before 4:00 PM on the date the adjournment is granted OR the adjournment request will be considered withdrawn, and the currently scheduled adjourn date will remain on the Court's calendar.