

HON. ANDREW G. TARANTINO, JR.

Acting Justice of the Supreme Court, Acting Judge of the County Court
Judge of the Family Court

Supreme Court of the County of Suffolk Part 50
One Court Street, Annex, Courtroom 229
Riverhead, New York 11901

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PART RULES *revised November 14, 2014*

The following are the rules of practice and procedure for Supreme Court, Part 50. Special rules regarding Summary Jury Trials are attached. The intent of these rules is to ensure fair and expeditious handling of all matters that are before the Court for the benefit of both the litigants and their respective attorneys. The Court staff includes the Judge, Confidential Secretary, Principal Law Clerk, Senior Court Clerk, Senior Court Officers and Court Reporter. All of these persons constitute a necessary and indispensable part of the Court, and they enable the Court to function fairly and effectively, for the benefit of both litigants and counsel. All members of the staff must be treated with civility, courtesy and respect. Strict adherence to the rules set forth in 22 NYCRR Part 700 ["Decorum"] and 22 NYCRR Part 1200 ["New York State Standards Of Civility"] is mandatory. Unprofessional conduct will be redressed in accordance with the Rules of Court.

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DEFINITIONS

Designated Motion Dates

Subject to the Rules set forth below in *Motion Practice*, all motions made in cases assigned to Part 50 shall be calendared for submission on any **TUESDAY** of the month. In the event that any Tuesday falls on a legal holiday or a day otherwise pre-empted by the Judge's schedule, then the Designated Motion Date for submission of motions that would have appeared on the calendar for that Tuesday shall be calendared for the next available Tuesday.

Parties

For the purposes of these rules, parties shall mean counsel of record and/or self-represented (*pro se*) litigants.

TRO/Stay Return Date

Where a Temporary Restraining Order (TRO) or a stay **has been imposed** in an Order **pending the return date** of an application, all parties shall appear on that date for argument regarding extension of any stay, and same shall not be, nor be considered, an adjourn date.

Where a Temporary Restraining Order (TRO) or a stay has **NOT** been imposed in an Order, or if the TRO or stay is issued "**until further order of the Court**" or "**until determination of the motion**" or other similar indication, then **no appearance** is required on the return date of the papers.

Where the return date assigned was not an available Designated Motion Date (as defined herein above), and the Court Calendar Department or Chambers therefore administratively carries the return date forward to a proper date, the TRO or stay shall automatically be continued to that rescheduled return date, without the requirement of notice to any party. It is the responsibility of all parties to inquire as to the scheduling or rescheduling of such matters.

Any application for **temporary injunctive** relief shall comply with the notice requirements in the Rules of the Chief Judge §202.7(f), CPLR §2214(d), and any other applicable law or rule.

ELECTRONIC FILING

All parties are directed to the Rules of the Chief Judge, §202.5-b (Electronic Filing in Supreme Court), and §202.5-bb (Mandatory Electronic Filing).

In all motions that are electronically filed, the parties shall provide Chambers with a "working copy" of the motion, together with all supporting papers.

MOTION PRACTICE

Motion/Post Note Motion Conferences

No motion shall be made based upon a failure to answer or upon a failure to comply with discovery until a pre-motion conference has been held.

A pre-motion conference is *not* required for CPLR §3211 and §3212 motions, default judgment motions, motions to withdraw as counsel, motions to confirm referee reports, and ex-parte motions for orders of reference in foreclosure proceedings.

Appearance of all parties is required at any Pre-motion or Motion Conference, and they must be prepared to discuss the matter in an effort to narrow the issues, as well as to explore a possible resolution of the case.

NOTE: DISCOVERY SHALL PROCEED PENDING MOTIONS PURSUANT TO CPLR §3211, §3212 & §3213. SUCH MOTIONS DO NOT AUTOMATICALLY STAY DISCOVERY . THE MOVANT MUST APPLY FOR A COURT ORDERED STAY.

Return Dates

All parties are directed to Rules of the Chief Judge §202.7(c) regarding good faith efforts to resolve the issues raised by the motion.

All motions are to be made returnable on a Tuesday. If not, the motion will be administratively continued to the Court's next available Designated Motion Date.

All motions shall be marked as "submitted" on the return date. No appearance is required unless oral argument is granted as outlined below. The Court may not consider responsive papers which are not time-stamped by the Court Clerk's Office on or before the submitted date.

Adjournments of Motions

Limits

No more than three (3) stipulated adjournments for an aggregate of 60 days from the original return date shall be permitted. See 22 NYCRR §208.8(e).

Stipulation required to adjourn motion

ADJOURNMENTS ARE NOT TAKEN BY TELEPHONE. THE COURTROOM CLERK IS NOT AUTHORIZED TO ADJOURN MOTIONS OVER THE TELPEHONE. All parties must execute the stipulation consenting to any adjournment. Unless otherwise ordered by the Court, adjournments within the above 60 day period will be accepted by the Court without prior approval. Said stipulations must contain the full caption of the action, the original return date of the motion and the adjourn date requested (which must be an available Designated Motion Date). Stipulations must be received by Chambers not later than 4:00 p.m. of the day before the return date. In the event that an application for adjournment is denied, such denial will be communicated to all parties by Chambers.

If consent cannot be obtained, the Court will entertain an oral application for adjournment on the date that the motion is returnable. The party seeking the adjournment must notify all parties in writing of the intent to request an adjournment. If the Court finds that consent for an adjournment was unreasonably withheld, the Court reserves the right to unilaterally impose an adjournment consistent with the interests of justice to a date convenient to the Court and the parties cooperating in the request for adjournment.

Settled or Adjourned Motions

The Parties shall notify the Court immediately about any motion that is settled or withdrawn. Failure to do so may be sanctionable.

Submission of Papers, Form, Proposed Orders

All motions, cross-motions, and other papers, should be in such form to assist the Court in reviewing the papers. Accordingly, paragraphs and pages should be appropriately numbered, and exhibits should be separated by easily identifiable separators. References to deposition testimony must contain the page and line number location. **Copies of decisions will not be mailed to any party unless a SELF ADDRESSED STAMPED ENVELOPE is enclosed with the papers.**

All motion papers (including motions, opposing papers, affidavits, etc.) must be submitted through, *and date stamped by*, the Special Term Clerk's Office, Supreme Court, 1 Court Street, Riverhead, New York 11901, *no later than the return date*. The Court will consider all papers properly submitted on notice and forwarded to Chambers by the Special Term Clerk's Office.

All papers must be submitted, together with proofs of service, in accordance with the express provisions of the CPLR. The Court may reject any papers (opposition, cross-motion, reply, etc.) which appear to have been inappropriately interposed, or which have not been date stamped by the Court Clerk on or before the return date.

Cross-motions with a stated return date that is beyond the return date of the original motion will not serve to adjourn the original motion, although the Court may elect, in its discretion, to adjourn the original motion.

Proposed Orders must be submitted with all motions and cross-motions (including Orders to Show Cause) submitted for Court consideration. All opposition to any of the aforesaid must contain a *counter proposed Order*. All proposed Orders submitted after filing of a motion, Order to Show Cause or opposition must be made on notice to all parties, but do not require formal service.

Oral Argument on Motions

All motions shall be decided upon the submission of papers. No appearance is required unless directed by the Court.

Oral argument may be requested in writing, on notice to all other parties, and received by Chambers not later than seven (7) days before the stated return date. Requests shall be made in accordance with the provisions of 22 *NYCRR § 202.8(d)*. If the Court declines to entertain oral argument, all parties will be notified by Chambers in advance of the return date.

CONFERENCES, TRIALS and NON-MOTION CALENDARING:

Discovery Track

All cases assigned to this Part are designated on the EXPEDITED track (22 NYCRR 202.19). All Preliminary Conference Discovery Schedules shall contain a Compliance Conference date to be held no later than 90 days following the Preliminary Conference.

Scheduling

All **conferences** and all **calendar matters** (Hearings, Inquests, etc.) shall be initially scheduled for an available Designated Motion Date (as defined herein above), unless scheduled otherwise by the Court. Hearings and Inquests will be scheduled by Chambers.

Appearances

Attorneys Of Record and Self Represented Parties are required to attend all scheduled court appearances unless they have been relieved or otherwise excused by order of the Court or have otherwise been formally substituted. **A non-appearing party may be sanctioned by the Court pursuant to 22 NYCRR §202.27 & 130-2.**

Conferences

Calendar call commences at 9:30 a.m. All conferences and calendar matters are handled by, and are returnable before, this Court at Part 50, Courtroom 214-A, Supreme Court Annex, 1 Court Street, Riverhead, New York, 11901.

Parties are required to check in with the Senior Court Clerk in the Courtroom and indicate their readiness to proceed. If the party has appearances elsewhere, the party must inform the Senior Court Clerk and adversaries, in order to extend appropriate courtesy to all parties.

Appearances are required for all scheduled conferences. A party with knowledge of the facts of the matter before the Court, who are vested with authority to enter into binding dispositions on behalf of their respective clients, are required to be in attendance. Failure to appear without proper cause may subject the non-appearing party to default or non-suit, as well as other potential sanctions, as provided for by 22 NYCRR 202.27 and 22 NYCRR 130-1.1 and 130-2.1

Preliminary Conference

The parties shall complete a Preliminary Conference Stipulation to be so-ordered by the Court. Discovery shall be scheduled so that the first compliance conference shall be held *no later than 90 days* after the conference date. If the parties enter into the stipulation and submit it to the Court before the Preliminary Conference date, the appearance of each party shall be waived for the conference.

Adjournments

No adjournment shall be granted which exceeds 21 days, and there shall be no more than three (3) adjournments regardless of the requestor. Otherwise, all Parties must obtain Court approval to adjourn any conference. **It is the party's obligation to communicate their request to all other parties and to provide the Court in writing with the date of adjournment, or list of available dates.**

Adjournments of conferences and other calendar matters shall not be granted without good cause and then only for a reasonable period of time. Adjournment applications shall be made with notice to all parties to the action.

TRIALS

These Rules apply to all trials, both jury and non-jury, including Summary Jury Trials, which are assigned to Part 50 on a random basis by the Calendar Control Part of the Supreme Court. The Court will conduct trials on all days, and will continue trials in progress day to day unless otherwise scheduled.

TIME

All trials start at 9:00AM. All Jury Trials (both bench, jury, and Summary Jury Trial) shall be considered **date certain**. Parties engaged in a Summary Jury Trial shall familiarize themselves with the rules and procedures which govern document exchange, evidence, trial time limitations, etc.

INTERPRETER

Each Party must inform the Part no later than fourteen (14) days before trial if an interpreter will be required for any part of the trial. Trial days may need to be rescheduled based upon availability of interpreters. It is the party's responsibility to inquire about the availability of interpreters for certain languages.

DOCUMENTS

Except for the procedures set forth for Summary Jury Trials, the Court will hold a Trial Conference with parties immediately prior to the commencement of the trial. Parties shall provide the Court with the following items at or before the conference or, if no Conference is held, no later than the beginning of trial :

- 1) a set of marked pleadings (summons, complaint, answer, etc), any amendments thereto, and copies of any Orders issued in the action;
- 2) all bills of particulars that have been served;
- 3) a list of witnesses for each side;
- 4) in the case of any expert witnesses, all of the information mandated by the provisions of CPLR 101(d)(1)(i);
- 5) a list of pre-marked exhibits;
- 6) a pre-trial Table of Authorities (relevant decisional law and statutes), **NO MEMORANDUM**.

THE FOLLOWING SHALL BE REDACTED FROM ALL RECORDS

- SOCIAL SECURITY NUMBERS TO THE LAST 4 DIGITS,
- FINANCIAL ACCOUNT NUMBERS TO THE LAST 4 DIGITS,
- DATE OF BIRTH TO THE YEAR,
- NAMES OF MINOR CHILDREN TO THE INITIALS, and
- HOME ADDRESSES TO THE CITY AND STATE.

THE COURT MAY PRECLUDE SUBMITTING ANY DOCUMENTS TO THE JURY WHICH HAVE NOT BEEN APPROPRIATELY REDACTED

The Court will explore the matter with parties and will also discuss settlement of the pending case. Parties must be authorized to negotiate and enter into binding settlements on behalf of their respective clients.

JURY CHARGE/QUESTIONNAIRE

The Court requires proposed jury charges and a verdict sheet to be submitted by each Party *no later* than seven (7) days before the Trial. Objections to a charge or question shall be submitted to the Court no later than three (3) days before Trial. **Reference to PJI sections** shall be sufficient on requests to charge.

ADJOURNMENTS

The Court will neither postpone nor adjourn any matter scheduled and ready for trial, absent drastic and emergent circumstances (such as death or hospitalization which affects the parties). In the event that a party fails, without good cause, to proceed on a scheduled trial, appropriate sanctions may be imposed upon the defaulting party, including but not limited to costs and counsel fees in favor of the opposing party and assessment of costs of assembling the petit jury.

SETTLED MATTERS

The Parties shall notify the Court immediately about any matter scheduled for trial that is settled. Failure to do so may be sanctionable.

SUMMARY JURY TRIALS
SUFFOLK COUNTY RULES AND PROCEDURE

rev. September 1, 2014

Nature of the Binding Summary Jury Trial A Summary Jury Trial (SJT) is a one-day trial that combines the flexibility and cost-effectiveness of arbitration with the structure of a conventional trial. Participation in an SJT is voluntary. In SJTs, damages can be floored and capped on a high/low basis, and the right to appeal or move against the verdict are waived. Trials will be bifurcated with damages immediately following the liability portion of the trial. If practical and damages are agreed upon by the parties, the trial will determine liability only. In the absence of agreement of counsel and approved by the trial court, the process and rules that follow shall apply.

1. **Consent of Parties:** The signatories to the SJT stipulation represent that they have the authority of their respective clients and/or insurance carriers to enter into the agreement and such agreement shall be irrevocably binding upon the respective principals.
2. **Stipulation:** The SJT written stipulation shall be signed by the attorneys reciting any high/low parameters, agreeing to waive any rights to appeal, agreeing to withdraw any pending motions and agreeing not to file any written motions subsequent to the execution of the written stipulation. The high and low parameters of the SJT shall not be disclosed to the jury.
3. **No Appeal:** The parties agree to waive costs and disbursements and further agree to waive the right to appeal from the determination of this matter.
4. **Scheduling:** A SJT will be placed on the calendar for trial at the earliest possible date. Once the trial date is assigned it shall be considered a date certain pursuant to Rule 125 of the Chief Judge. Adjournments require permission of the SJT Justice. All time requirements and limitations set forth in these rules may be modified by the SJT Justice upon consideration of the particular circumstances of the case and as justice may warrant. At the time the SJT is scheduled, any party requiring an interpreter for their case shall inform the Court.
5. **Pre-trial submissions:**
 - a. **No later than 30 days before the SJT**, any party intending to offer documentary evidence upon trial, including but not limited to accident reports, medical records and lost income records, are to serve copies of such documentary evidence upon all parties, and in no event any later than the Evidentiary Hearing described below. It shall not be necessary to serve any previously exchanged EBT transcripts. It is not required to file an advance copy with the Court. **NOTE: SOCIAL SECURITY NUMBERS, ACCOUNT NUMBERS AND OTHER PERSONAL DATA SHALL BE REDACTED FROM ALL DOCUMENTS BEING SUBMITTED TO THE JURY**

- b. **No later than 10 days before the SJT**, the SJT Justice assigned to the case shall conduct an Evidentiary Hearing at which time objections to any documentary evidence previously submitted as provided for above shall be determined, and witness lists shall be exchanged. Each Party must appear for the Hearing unless a stipulation is submitted to the SJT Part no later than 5:00PM on the day before the Hearing that there are no evidentiary issues. The SJT Justice may issue an order of preclusion if either side fails to serve documentary evidence as is required herein.
- c. **Reference to PJI sections** shall be sufficient on requests to charge. Requests to Charge shall be submitted at the evidentiary hearing, together with proposed verdict sheets.
7. **Trial Record:** The SJT will be recorded by a court reporter.
8. **Existing Offer and Demand:** The parties may stipulate that the pre-trial offer and demand remain unaltered through the binding SJT. Either party may elect to accept the last settlement proposal of the opponent at any time before the verdict is announced by the jury.
9. **Jury Selection:** Jury selection generally begins with an introduction from the Court that explains what will occur and how it differs from a conventional trial. Jury selection is time limited. If the Court conducts the voir dire each side shall then be permitted 10 minutes each to also voir dire the jury. Summary Trial juries shall be composed of six (6) persons. One or more additional jurors, to be known as “alternate jurors”, may be drawn upon the request of a party and consent of the Court. The Court shall allow each side two peremptory challenges which is inclusive of the alternate juror.
10. **Time Limits:** Generally, the time limitations are as follows: each opening statement and each summation is limited to ten (10) minutes. Each side shall have one (1) hour for presentation of their case which includes any time used for cross examination of witnesses. The Court may adjust the time limits as the circumstances warrant and allow. For example, if each side uses only a portion of the combined time for case presentation, the Court may add time to summations while still maintaining the overall goal of limiting the SJT to a one-day trial. Unless the SJT Justice directs otherwise, the court clerk should keep track of the time and remind counsel of the status of allotted time at appropriate intervals.
11. **Rules of Evidence:** The parties may offer such evidence as is relevant and material to the dispute. The rules of evidence are relaxed as to document production, but are not abrogated.

**SOCIAL SECURITY NUMBERS TO THE LAST FOUR DIGITS,
ACCOUNT NUMBERS TO THE LAST FOUR DIGITS, AND OTHER
PERSONAL DATA SHALL BE REDACTED FROM ALL
DOCUMENTS BEING SUBMITTED TO THE JURY AND HAVING
PUBLIC ACCESS**

- a. EBT testimony of a party may be offered by any opposing party, however a party shall not be permitted to offer his/her own EBT testimony except as provided by the CPLR. This section shall apply to video depositions as well.
- b. Past and future lost income may be proved by the submission of documentary evidence from the party's employer, including but not limited to pay stubs, tax returns, W-2 and/or 1099 forms provided that such amounts may be calculated with a reasonable degree of mathematical certainty based solely upon present income and life expectancy. Any claim of future lost earnings premised upon inflation, lost opportunity, promotion, career advancement or similar theory shall only be proved by expert testimony or the report of an expert previously exchanged pursuant to these rules.
- c. Non-party witness testimony can only be offered through the use of the non-party deposition testimony of such witness taken pursuant to the notice requirements of the CPLR or by producing that witness at trial.
- d. None of the foregoing shall be construed to prevent a party from calling witnesses upon trial, except that each party is limited to calling no more than two (2) witnesses. Live video testimony shall be permitted. If a party intends to call an expert witness, medical or otherwise, that party must provide written notice to all parties of such witness, along with a copy of that medical expert's narrative report(s), no later than 20 days before the trial. In the event a non-party witness is a non-medical expert, counsel shall comply with the standard provisions of the CPLR concerning non-medical experts. Failure to comply with this provision shall result in the preclusion of such expert witness at the time of trial.
- e. The following, subject to redaction of hearsay or non-relevant information, shall also be admissible without the formal requirement of business record certification: police reports; the MV104 of any party; medical records including but not limited to hospital records, ambulance records; medical records and/or reports from a party's medical providers; defendant doctor reports inclusive of No Fault medical exam reports; diagnostic test results including but not limited to X-rays, MRI, CT scan, and EMG reports, or any other graphic, numerical, symbolic, or pictorial representation of medical or diagnostic procedure or test of a party. Any stipulated evidence shall also be admitted.
- f. There shall be no requirement that any record referred to above be certified, affirmed or sworn to.
- g. Pre-trial evidentiary issues normally determined by the trial judge, such as motions in limine and redaction of documentary evidence, shall be determined in conformance with the applicable rules of evidence by the SJT Justice at the evidentiary hearing and in accordance with the rules as provided herein. Any objections to be raised at said hearing shall be in writing and served on opposing counsel in advance of said hearing.

- h. The SJT Justice may, upon request of a party, issue "So Ordered" subpoenas to secure the attendance of witnesses or the production of documents as may be requested by any party, upon such notice to any other party as set forth in the CPLR.
- i. Counsel by written stipulation, may agree upon the evidence to be submitted.

12. **Case Presentation:**

- a. Counsel may present summaries of evidence, factual allegations, inferences from discovery. Counsel may use photographs, diagrams, power point presentations, overhead projectors, trial notebooks, all of which can be submitted to the jury, or any other innovative method of presentation. Trial notebooks should be bifurcated in form to allow for presentation of liability and/or damages portion of the SJT.
- b. Anything which is to be submitted to the jury as part of the presentation of the case must be exchanged with opposing counsel within the conformity of the rules concerning the presentation of case and pre-trial submissions. Counsel shall not refer to or introduce evidence which would not be admissible at trial other than as previously stated. Counsel are encouraged to stipulate to factual and evidentiary matters to the greatest extent possible.
- c. No more than two witnesses for each side may be called for direct and cross- examination. On application of a party and upon good cause shown, the Court may allow an increase in the number of witnesses. Time spent by counsel on direct and cross examination shall count against their allotted time for presentation of their case unless the court directs otherwise.

13. **Jury Verdict:** Upon request by the jury, the Court shall give the jury a written copy of the jury charge for use during deliberations. Five out of six jurors must agree on the verdict. The verdict is to be binding as rendered or limited by a high/low stipulation. The jurors may bring into the jury room any trial notebooks, exhibits, presentations, etc. that may have been presented during trial.

14. **No Directed Verdicts:** Parties agree to waive any motions for directed verdicts as well as any motions to set aside the verdict or any judgment rendered by said jury, The Court shall not set aside any verdict or any judgment entered thereon, nor shall it direct the judgment be entered in favor of a party entitled to judgment as a matter of law, nor shall it order a new trial as to any issues where the verdict is alleged to be contrary to the weight of the evidence.

15. **Inconsistent Verdicts:** In the case of inconsistent verdicts, the SJT Justice shall question and charge the jury as appropriate to resolve any inconsistency in said verdict.

16. **Infant Plaintiff:** In a summary jury trial involving an infant, the Court must approve any High/Low parameters prior to trial.