



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
SUPREME COURT-SUFFOLK COUNTY  
HON. JOSEPH C. PASTORESSA  
CHAMBERS  
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## IAS/ TRIAL PART 34- RULES & PROCEDURES

Unless otherwise directed by the Court, the following rules shall govern practice in Part 34:

### **Motion Practice:**

**Return Dates/ Submissions:** All motions made in cases assigned to Judge Pastoressa must be calendared for submission on Wednesday's. Unless adjourned by the Court, all motions appearing on the Court's Wednesday motion calendar shall be marked submitted. Appearances are not required on any motion unless oral argument has been requested and granted. All requests for oral argument must be made in accordance with 22 NYCRR 202.8(d).

**Papers:** Timely interposition of all papers in accordance with the CPLR is required, as the Court will not consider the merits of any papers, including opposition, cross-moving or reply, which have been interposed in an untimely manner. All motion papers must be submitted through Special Term. No courtesy copies are to be submitted.

**Adjournments:** Adjournments of motions will be governed by 22 NYCRR 202.8 (e). All proposed adjourn dates must fall on a Wednesday. All adjournments on consent must be received by Chambers no later than 3:00 p.m. on the day prior to the return date. If the consent of all appearing parties is not obtainable, an oral application for an adjournment on or before the date the motion is returnable must be made by the party seeking the adjournment, upon due notice to all parties.

**Settled or Withdrawn Motions:** The court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice. The failure to do so will be sanctionable.

### **Conferences:**

**Scheduling:** Conferences shall be calendared for the first and third Wednesday of each month.

**Appearances:** Appearances by persons with knowledge of the facts and vested with authority to make binding dispositions are required. Non-appearances will not be countenanced by the Court and may subject the non-appearing party to one or more of the sanctions attendant with defaults (see, 22 NYCRR 202.27; 22 NYCRR Part 130-2).

**Adjournments:** All applications whether on consent or over objection must be communicated to Chambers no later than 4:30p.m. on the day prior to the scheduled conference. Any application to the court seeking an adjournment must be done on prior notice to all parties.

**Preliminary Conferences:** Preliminary conferences will be scheduled by the Court in accordance with 22 NYCRR 202.12 and 202.19 which will be conducted by DCM located in room A 362, 1 Court Street, Riverhead, New York. Counsel for the respective parties are thus directed to appear at 9:30 a.m. on the preliminary conference ready for said conference. All matters, including those raised by pending motions and those contemplated by 22 NYCRR 202.19, shall be undertaken at the preliminary conference.

**Compliance Conferences & Pre-trial Conferences:** These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR 202.19.

#### **Trials:**

**Jury Trials:** A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. Thereat, counsel shall supply the Court with marked pleadings, amendments thereto and all bills of particulars served. Counsel shall further provide the Court with a list of proposed jury charges 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 advise the Court of the number of witnesses to be called, and if any be experts, shall provide the information required by CPLR 3101(d)(1)(I).

All hospital records and other items in evidence over fifteen [15] pages must be paginated before use in the trial. In all malpractice cases each attorney in anticipation of charge conference and verdict sheet preparation must have the departure and causation testimony located in the trial transcript available for the courts review.

**Non Jury Trials:** Non- Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. In addition thereto, for non-Jury trials, counsel shall submit a proposed order framing the issues to be tried. The parties shall be required to provide a transcript of the trial. The filing of a note of issue is a condition precedent to the commencement of any trial.

#### **Miscellaneous Matters:**

**Contempt Applications:** Appearance by all parties is mandatory.

**Compromise Applications:** All applications for court approval of a proposed compromise of an infant or other disabled party's claim must be submitted through the Special Term, with proof of service on all remaining parties. Compliance with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67 and a proposed distribution of net amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. The Court will not accept medical reports/affidavits executed more

than six months prior to the submission date. The report must indicate whether the injured plaintiff has fully recovered, and if not, the nature and extent of the injuries and course of future treatment. Since the Court may direct that notice of the application be given to all persons who possess claims against the proceeds recoverable under the compromise, including those with statutory liens, the names and addresses of all such persons and the amount of their respective claims must be set forth in the petition. If no person has asserted such a claim, the petition must so state. Once the submissions are complete, an appearance date shall be scheduled by the court.

**Hearings/ Inquests:** All hearing and or inquests emanating from cases in the inventory of IAS Part 34 shall be scheduled by the Court. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest.

**Ex Parte Communications with Chambers:** Except to the limited extent permitted by these rules and by the rules set forth at 22 NYCRR 100.3, ex parte communications with the Court or any member of its staff, by telephone or otherwise, is strictly prohibited. All inquiries regarding the scheduling of conferences or return dates of motions should be directed to the Calendar Department at (631) 852- 2355, as direct telephone communication with Chambers is prohibited except for the most exigent circumstances.

Thank you for your courtesies and co-operation.