



STATE OF NEW YORK
UNIFIED COURT SYSTEM

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CHAMBERS

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IAS/TRIAL PART 23 - RULES & PROCEDURES

Unless otherwise directed by the Court, the following rules shall govern practice in Part 23:

1. MOTION PRACTICE: (Except Contempt - See: Miscellaneous Matters)

RETURN DATES/SUBMISSIONS: All motions made in cases assigned to Justice Pines shall be calendared for submission on **Thursdays**. Unless adjourned by the Court, all motions appearing on the Court's **Thursday** motion calendar shall be marked submitted.

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 appear to have not been interposed in accordance with the CPLR or 22 NYCRR 202.8. The timely submission of memoranda of law is expected in all special proceedings and on motions which include demands for dispositive relief. All motion papers must be submitted through Special Term.

ADJOURNMENTS: Adjournments of motions are limited to three in number and may not extend the original return date for more than sixty (60) days unless prior written permission of the court is obtained [22NYCRR 202.8 (e)]. *All proposed adjourn dates must fall on a Thursday.* An application for an adjournment of a motion may be made by submission of a written request containing the stipulated consent of counsel for all parties. All stipulations of adjournment must be received by Chambers no later than 1:00 p.m. on the day prior to the return date, and may be forwarded by fax or mail directly to Chambers. The stips must indicate the date on which the motion and all cross-motions riding therewith are returnable before the Court; the adjourn date requested [*Thursday* only]; and the number of prior adjournments granted. A denial of any stipulated adjournment request will be forthwith communicated by telephone or fax by Chambers personnel. If the stipulated consent of all appearing parties is not obtainable, an oral application for an adjournment on the

date the motion is returnable before the Court must be made by the party seeking the adjournment, upon due notice to all parties. Interposition of a cross-motion with a return date subsequent to the submission date for the motion -in - chief will not cause an adjournment of the motion-in-chief.

2. CONFERENCES:

SCHEDULING: Conferences shall be calendared for any Thursday 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, 22NYCRR 202.27; 22 NYCRR Part 130-2).

ADJOURNMENTS: Due to the time limitations imposed on various stages of civil cases within the purview of the Comprehensive Civil Justice Program and its cornerstone, the Differentiated Case Management system, adjournments of conferences will not be granted lightly. Applications for adjournments of conferences are governed by the same procedures applicable to adjournments of motions [see above]. Appearances are thus required unless the Court has granted an adjournment upon a written request containing the stipulated consent of counsel for all parties received by Chambers not less than one day prior to the scheduled conference.

PRELIMINARY CONFERENCE: Preliminary conferences will be scheduled by the Court in accordance with 22 NYCRR 202.12 and 202.19. All matters, including those raised by pending motions and those contemplated by 22NYCRR 202.19, shall be undertaken at the preliminary conference.

COMPLIANCE CONFERENCES AND PRE-TRIAL CONFERENCES: These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR 202.19.

3. TRIALS:

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 and all bills of particulars served. 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).

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 the following: 1) A copy of marked pleadings, amendment thereto, bills of particulars; 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); 4) pre-trial memoranda of law; and 5) 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.

4. MISCELLANEOUS MATTERS:

CONTEMPT: All applications shall be calendared on the date returnable. *Appearance by all parties in mandatory.* No adjournments will be granted unless a stipulation consenting to the adjournment, signed by all parties and any alleged contemtor who is not a party, is received in Chambers no later that 1:00 p.m. of the day prior to the return date.

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 pliantiff that is consistent with the provisions of CPLR 1206is required. The Court will not accept medical reports/affidavits executed more that 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 the injures 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 these with statutory liens, the names and addresses of all such persons and the amount of their prospective 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 hearings and or inquests emanating from cases in the inventory of IAS Part 23 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 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 inquires regarding the scheduling of conferences or return dates of motions should be directed to the Calendar Department at 631-852-2350 or Special Term at 631-852-2407, *as direct telephone communication with Chambers is prohibited except for the most exigent circumstances.* Authorized communication directly with Chambers is thus limited to the faxes permitted by these rules, all of which must contain stipulated consents of all other appearing parties or proof that the fax communication was duly served upon all such parties.

Thank you for your courtesies and co-operation.