

Court Rules for Justice Wilma Guzman.

PART 7:

Room: 607
Phone (718) 618-1218
FAX: (718) 618-3542

Motion Procedure: Effective January 2, 2010.

There are *NO SUBMITTED MOTIONS IN THIS PART, AND ALL MOTIONS WITHOUT EXCEPTION MUST BE ORALLY ARGUED.*

Moving and responding papers including stipulations and requests for adjournments are to be filed and with confirmed with Part IAS 7 Clerk. Except that any case that has been marked final in the part itself must seek approval on the record to file an additional adjournment beyond a final marking. (All motions seeking discovery must be directed to the Compliance Conference Part, as no issues of discovery will be entertained by this IAS part 7.)

Movant's on Motions and Orders to Show Cause that fail to appear for oral argument will be summarily denied for failure to appear. No exceptions.

All parties seeking or filling a request for adjournment must insure that such request has been granted prior to the scheduled date in order to avoid a default determination being entered. All request for adjournment must be made in writing, oral applications will not be entertained. No exceptions.

If opposition papers have been duly filed in the Clerk's office, courtesy copies need not be provided to the Court.

All parties appearing on a motion should have familiarity with the case and the moving papers sufficient to engage in substantive oral argument on the issues raised in the motion papers.

As with all matters, Orders to Show Cause must comply with Uniform Rule 202.7(d) and be brought to the Clerk's office (Room 217) prior to judicial review, signature and fixing a return date. Appearance is thus required, no exceptions.

A moving parties failure to appear may result in an Inquest or dismissal pursuant to Section 202.27 of the Uniform Civil Rules for the Supreme Court and County Court.

All papers must comply with CPLR §2101, 2103 and 2214.

Tabs must be used when submitting exhibits with any motion.

All cited material shall be fully viewable without having to remove staples or binding.

All submissions shall be fully and securely bound.

No exhibits shall be double side.

Courtesy copies shall not be submitted unless requested.

When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document. Proposed orders or judgments incorporated within motion papers will be considered exhibits, treated as such, and may be disregarded.

Failure to appear at a calendar call will result in denial of any motion made by the non-appearing party and the granting of any motion on default when the opposing party fails to appear.

Counsel must advise the Court in writing and as soon as practicable if any submitted motions have been resolved, withdrawn, or if the motion is moot because the case has been settled.

This part generally only entertains substantive non-discovery motions. However, this part will entertain motions for pre-action and non-party discovery.

No motion for substantive relief shall be joined with any application for discovery. Discovery related motions are heard by the Judge presiding in the DCM Part, IAS Part 11. In the event that a party makes a discovery cross-motion in response to a substantive motion, the Court shall refer the discovery related application to the DCM Part, IAS Part 11 and upon resolution of the discovery motion, shall resolve the substantive motion.

Effective January 1, 2010, pursuant to CPLR §3212(a), a motion for summary judgment shall be made no later than sixty (60) days after the filing of the Note of Issue, except with leave of court on good cause shown.

No sur-replies shall be considered absent leave of court to interpose the same.

Without exception all motions shall be securely bound and all exhibits submitted in support of any motion shall be one sided. Failure to adhere to this rule shall result of denial of the motion.

Inquiries:

All inquiries as to case or calendar status should, in the first instance, be made to the appropriate clerk's office: IAS Motion Support Office: Room 217.

The Only inquiries that should be made directly to Chambers or the Part should be those involving the immediate and substantive exercise of judicial discretion.

Facsimiles to Chambers are not permitted unless prior authorization is obtained.

Attorneys shall not call Chambers or the Court Room during the daily lunch hour which is from 1 PM to 2PM.

1

Motions Brought by Notice of Motion:

¹Although the number to Chambers has been provided use of said number is subject to limitations set forth herein.

Motions are returnable (5) days a week in the Motion Support Office.

All opposition and reply papers must be submitted to the Motion Support Office on the return date of the motion, (Oral Argument Date or Notice for motion date by the Court)

All non-disclosure motions are adjourned by Motion Support to the First next available Monday for Oral Argument.

Stipulations of adjournment, compliant with the Uniform Court Rule §202.8(e) (1), submitted to the IAS Part 7 Clerk, prior to the return or adjourned date of a motion, will be adjourned to the next available date to the Court.

Oral applications seeking an adjournment shall be made upon failure to procure prior adjournment on written consent and signed by all parties.

There shall be oral argument and personal appearance is required on all motion brought by notice of Motion, Petition or Order to Show Cause.

All opposition and reply papers submitted prior to the oral argument date shall be submitted to the Motion Support Office. If not, submitted prior to the oral argument date, then copies of the opposition and reply papers shall be brought to the oral argument date.

TRIALS:

All parties assigned to this part must provide the following:

Be prepared and well organized. Be punctual and professionally attired. Be civil to the Court and to each other.

Plaintiff must provide a copy of the pleadings, bill of particular, demands for discovery and corresponding responses, copies of their clients EBT transcripts and copies of all their expert 3101(d) exchanges.

Defendants must provide copies of their responses to demands for discovery from plaintiff, copies of their client's or witnesses's EBT transcripts and copies of all their expert 3101(d) exchanges.

All parties must raise all pre-trial issues prior to jury selection or openings, or whichever opportunity is first available to the parties, in order that such issues be preserved for appellate purposes.

Any pre-trial issues not raised before openings will be deemed WAIVED.

All parties must reveal and identify all potential witnesses that may be called during the trial; failure to reveal or identify will be deemed a voluntary waiver by the party.

The Court will work with attorneys to resolve scheduling conflicts. However, all scheduling concerns and issues should be promptly discussed during the first conference.

Any special requests, such as interpreters, blackboards, media equipment, shall be made in advance of commencement of the trial or during the first conference.

There shall be no time limits imposed upon the jury selection process but it is expected that the attorneys will select a jury as expeditiously as possible.

There shall be no time limits imposed upon the jury selection process but it is expected that the attorneys will select a jury as expeditiously as possible.

Parties shall furnish the Court with copies of any statutes that the parties claim are relevant to a particular case.

Parties must provide the Court with copies of all transcripts to be used during the trial prior to their use at trial. Portions of any transcript to be read into evidence on a party's case in chief must be disclosed in advanced and the Court and all parties must be provided with all page and line numbers for the portions to be read.

Parties shall provide the Court copies of all expert exchanges and reports. When the case is first conferenced in the Part, parties shall Alert the Court to all anticipated issues of law and fact and provide the Court with the relevant law applicable to their case.

Stipulate to undisputed facts and the admissibility of clearly admissible documents.

Apprise the Court of any anticipated motions *in limine*.

Provide the Court with a list of anticipated witnesses.

Provide the Court with any subpoenas it wishes the Court to so-order, provided the same are relevant to the trial at hand.

Motions *in Limine* should be supported by case law and copies of the same must be provided to the Court prior to the making of such motion.

All trial exhibits must be pre-marked for identification, as well as any records stipulated in evidence.

During the trial no of the attorney, witness, or party shall have any communication with the jurors. All conferences between attorneys and witnesses during trial should be avoided on the 6th floor.

Speaking objections are prohibited. An objection shall be made by standing, saying "objection" and thereafter succinctly stating the basis for the objection. If the objection requires elaboration, parties should request a sidebar.

While opportunity to preserve and make a record may not always be allowed when requested, all attorneys shall ultimately be granted ample opportunity to make a record.

Any item which is sought to be shown to a witness must first shown to opposing counsel.

Due to the Court's motion calendar, there shall be no trials on Monday mornings.

Due to the Court's Mental Hygiene Inventory, there shall be no trials conducted on Tuesdays and on some Fridays.

Motions Brought by Order to Show Cause:

Orders to Show Cause must comply with Uniform Rule 202.7(d) and be brought to the Motion Support Office. Thereafter, they are forwarded, by Motion Support, to Chambers for consideration.

All Orders to Show Cause are returnable on Mondays, except for court holidays, in IAS Part 7 at 10:00 AM, unless otherwise indicated. Personal appearance is required.

Proof of service must be filed with the Clerk of IAS Part 7 by 10:00 AM on the return date. Non-compliance will result in denial of the Order to Show Cause.

Stipulations adjourning an Order to Show Cause shall be filed or facts with the Clerk of IAS Part 7 prior to the call of the calendar. Parties are responsible for confirming the adjournment.

Infant Compromises and Other Ex Parte Applications :

Ex Parte applications are to be submitted to the Motion Support Office. Thereafter, they are forwarded by Motion Support to Chambers for consideration.

After review of Infant Compromise submissions, counsel will be notified when to appear. Counsel shall also be notified of any deficiencies in the papers submitted and shall, when appropriate, be given an opportunity to submit additional information to cure the deficiency.

Hearings are required and are held prior to the approval of any Infant Compromise Order.

The infant and his named guardian must be present on the date scheduled unless a prior waiver of their appearance has been obtained.

All proposed infant compromise orders shall contain the following language:

It is further Ordered that the Guardian shall, within thirty days of the deposit of the funds due the infant herein in the a designated bank(s), submit to the Clerk's Office, Motion Support, a copy of the Certificate of Deposit issued by said bank.

It is at the Court's discretion in which bank the Infant Compromise funds are deposited.

The attorney's supporting affirmation shall set forth the policy limits of all available Insurance.

All infant's Compromise submissions shall comply with C.P.L.R §1207, 1208 and Uniform Rules §202.67.

The Court will not entertain an Infant's Compromise Order where the medical evidence submitted is wholly inappropriate, e.g., a chiropractor rendering an opinion with regard to a wrist fracture, an internist rendering an opinion regarding "psychic trauma", or said opinion or report is more than nine months old.

Mental Hygiene Law Article 81 Proceeding:

Conference and Hearing calender shall be called at 10:00 AM on Tuesdays.

Since these proceedings are time sensitive, adjournments will be granted only under exigent circumstances and with the prior approval of this Court.

Applications for adjournments must be requested from the Judge or the Principal Law Clerk and thereafter in writing. Written requests for adjournments can be made via letter on notice to all parties and served upon the Court via facsimile. Parties are responsible for confirming the adjournment.

It is expected that the Court Evaluator assigned to any particular proceeding shall fully verse him/herself with his duties and responsibilities and execute the same properly and completely.

Should the AIP request counsel, the Court Evaluator shall notify the Court in writing as soon as practicable and the Court shall appoint counsel pursuant to the Mental Hygiene Law.

Applications for alternate service upon the AIP shall be made by ex-parte Order to be submitted to the Guardianship Office, and shall be accompanied by proof supporting the basis for alternate service.

Applications by the Court Evaluator seeking to examine AIP's medical records or seeking to have the AIP examined by an independent medical doctor, shall be made pursuant to the Mental Hygiene Law..

The report of the Court Evaluator shall be provided to the Court on the day of the hearing and shall not be published to any other party until the day of the hearing.

All hearings must be conducted in the presence of the AIP pursuant to the Mental Hygiene Law 81.11(c)(2). Accordingly, any discussions regarding the waiver of the AIP's appearance shall be discussed or heard pursuant to the Mental Hygiene Law 81.11(c)(2).

Unless an exception is made, all applications related to Article 81 of the Mental Hygiene Law shall be brought by Order to Show Cause and not by Notice of Motion.

Copies of the Order to Show Cause and Interim decisions will be faxed to the petitioner.