

JUSTICE ROBERT R. REED
Supreme Court of the State of New York,
New York County, Civil Branch: IAS Part 43
Principal Court Attorney: Mr. John Owens Jr., Esq.
Part 43 Clerk: Ms. Alicia Washington

COURTROOM

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CHAMBERS

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Preliminary Conferences: Thursdays, commencing at 9:30 a.m., or as otherwise directed.
Oral Argument on Motions: Thursdays, commencing at 9:30 a.m., or as otherwise directed.
Compliance Conferences: Thursdays, commencing at 2:30 p.m., or as otherwise directed.
Pretrial Conferences: Mondays, commencing at 2:30 p.m., or as otherwise directed.

Parties should be familiar with the rules of the Justices of the Supreme Court, Civil Branch, New York County, available at http://www.nycourts.gov/courts/1jd/supctmanh/Uniform_Rules.pdf. Relevant procedures are explained on the Court's website (see "Protocol on Courthouse and County Clerk Procedures for E-Filed Cases" at <http://www.nycourts.gov/courts/1jd/supctmanh/E-Filing.shtml>).

I. *Appearances by Counsel*

Counsel are required to check in with the Court Officer at the time scheduled for the particular proceeding. Parties whose counsel fail to check in within one (1) hour of the scheduled time are subject to default/striking of pleadings. Counsel with appearances elsewhere in the courthouse should advise their adversary of their whereabouts to avoid a default/striking of pleadings. In general, matters are heard in the order that all parties on the matter are present and ready to proceed [see Rule 1 of the Local Rules].

II. *Communication with the Part Clerk and Chambers:*

- A. Unless specifically instructed to do so, **DO NOT** call, e-mail or attempt to fax chambers regarding scheduling matters and requests for adjournments.
- B. Adjournment requests for conferences and oral arguments scheduled in Part 43 should be made by contacting the Part 43 Clerk. If you contact the Part Clerk via e-mail, all parties must be copied, i.e., "cc'd," on such e-mail message.
- C. Parties must obtain Court permission to adjourn any Court appearance. Absent an emergency, such permission must be obtained no later than one (1) business day in advance of the scheduled conference and no later than two (2) business days in advance of an oral argument.
- D. Adjournment requests for motions returnable in the Motion Submissions Part (Room 130), for mediation dates in Mediation-I, and/or for jury selection dates in Trial Part 40 should be made by

contacting the appropriate Part Clerks. Justice Reed, chambers staff and the Clerk of the Part do not administer these calendars.

- E. No *ex parte* communication. In addition, do not copy the Court on letters exchanged between counsel, unless previously directed to do so by the Court.
- F. Do not send documents to chambers, unless previously directed to do so by the Court. All documents should be E-Filed or delivered to the Part Clerk. If you have E-Filed a document that requires judicial action, please advise the Part Clerk.
- G. If a case settles while a motion is *sub judice*, please advise the Clerk of Part 43 IMMEDIATELY!

III. ***Motion Practice:***

- A. All motion papers must comply with Rule 14 of the Local Rules.
- B. All requests for admission pro hac vice, whether made by motion or stipulation, shall be accompanied by an affirmation in support from a member of the Bar of the State of New York, an affirmation from the applicant, and a recent certificate of good standing from the applicant. The affirmation must also advise the Court whether the applicant has ever been or is presently subject to disciplinary proceedings.
- C. When appropriate, proposed orders should be submitted with motions, e.g., motions to be relieved, pro hac vice admissions, open commissions, etc. No proposed order should be submitted with motion papers on a dispositive motion.
- D. CPLR 3212 summary judgment motions are to be filed not later than 60 days of filing the Note of Issue. A cross-motion will be deemed filed on the day it is filed, and its timeliness does not relate back to the filing of the main motion.
- E. Any party wishing to submit a proposed Order to Show Cause containing a Temporary Restraining Order (“TRO”), in accordance with Uniformed Rules of N.Y.S. Trial Courts 202.7(f), must notify all parties that such proposed OSC is to be filed, and must provide the date, time and location it is set to be presented to the Court for argument of the TRO only. Attestation of notification must be included in the application in support of the proposed OSC.
- F. E-Filing and Other Filing Considerations
 - i. Justice Reed requires “working copies” of motion papers. Working copies of motions on notice are required to be submitted to the Motion Submission Part (Room 130) on the final return date of the motion in that room. Exhibits submitted as part of working copies should be tabbed and legible. Working copies are not required for documents that do not require judicial action (e.g., note of issue).
 - ii. Questions regarding E-Filing should be addressed to the E-Filing office by calling 646-386-3033 or via e-mail at efile@nycourts.gov. Answers to frequently asked questions can be found at <http://www.nycourts.gov/supctmanh/E-Filing.htm>.

- iii. The CPLR does not provide for sur-reply papers, however denominated. The Court will not read sur-reply papers.

E. Oral Argument

- i. Scheduling

After motions are marked “submitted” in the Motion Submission Part they are forwarded to Part 43. Motions submitted on default or with no opposition are not generally scheduled for oral argument. All other motions will be scheduled for oral argument at the discretion of Justice Reed, pursuant to 22 NYCRR 202.8(d). Once oral argument is scheduled, notification will be sent by Motion Support or via an E-Courts alert.

- ii. Adjournments

All requests for an adjournment of an oral argument should be made to the Clerk of Part 43. If granted, a stipulation should be faxed to the Part no later than 4:30 p.m. on the Tuesday prior to the oral argument date. If the parties cannot agree on an adjournment, a conference call may be arranged with the Clerk of the Part or an application made on the date of oral argument. **Note: The parties are reminded of the importance of courtesy and cooperation when dealing with one another.**

IV. *Discovery:*

- A. Please consult Rule 10 of the Local Rules. If after good faith efforts, counsel are unable to resolve or narrow the issues involving discovery, the aggrieved party, before filing a motion, shall first request an expedited conference by contacting the Part 43 Clerk. **DO NOT** call chambers. The party requesting the conference will be responsible for notifying all parties of the date and time of the conference. The Part 43 Clerk must be copied, *i.e.*, “cc’d,” by e-mail, on all such notifications. Once the notification is received by the Part, the expedited conference will be placed on the Court’s calendar. Conferences requested on an expedited basis generally will be scheduled on the first available Thursday. Conferences requested on an expedited basis will be granted only at the Court’s discretion.
- B. Discovery motions shall not be made without first complying with the above directive; any such motion may be denied summarily.
- C. Where a party objects to disclosure on the ground of privilege, its response shall include a log of the documents being withheld and a copy of redacted documents, bates-stamped. The privilege log shall identify all withheld and redacted documents by bates-stamp number; shall list date, author, and recipients (except where same is disclosed on redacted documents), and shall state the privilege(s) being asserted. Following service of the privilege log, counsel shall confer and, if, after such conference, they are unable to reach an accommodation, the aggrieved party may contact the Part Clerk to arrange a conference.
- D. Any order regarding the confidential exchange of information should be based on the Proposed Stipulation and Order for the Production and Exchange of Confidential Information prepared by a

V. ***Preliminary and Compliance Conferences:***

- A. Preliminary conferences may be scheduled following the filing of an RJI or after decision on a motion. Alternatively, the parties in any action in which an RJI has already been filed may contact the Clerk of Part 43, who will schedule a conference for the first available date.
- B. Compliance/Status conferences may be scheduled pursuant to a prior discovery order, a decision on a motion, or by any party contacting the Clerk of Part 43, who will schedule a date, if necessary as soon as is practicable.
- C. Please bring copies of all prior conference orders stipulations to the conferences. If there are motions pending in the Motion Submission Part or any motions which are *sub judice*, please bring this to the attention of the Part Clerk.
- D. All appearing parties must be present for a case to be conferenced. Without a conference, the order will not be signed. A conference has not been completed until either the Justice or his court attorney has reviewed the completed form, conferenced the case and provided a signed copy of the order/stipulation.
- E. The failure of counsel to appear for a conference may result in a sanction authorized by section 130.2.1 of the Rules of the Chief Administrator or section 202.27, including dismissal, the striking of an answer, direction for an inquest or direction for judgment, or other appropriate sanction.
- F. Absent good cause, failure to comply with a discovery order may result in may result in the imposition of penalties upon the offending party and, where warranted, upon counsel. Such penalties may include waiver of the discovery, preclusion, dismissal, striking of an answer, costs, sanctions, and attorney's fees.
- G. In E-Filed matters, copies of preliminary conferences and compliance conference orders will be available electronically.

VI. ***Trials:***

****Unless otherwise directed, after the note of issue has been filed, the case will be assigned a date in Mediation-I by the Trial Support Office. ****

A. Jury Trials

After a case concludes its time in Mediation-I, it is sent to Part 40 for jury selection. After jury selection, trials are assigned to a Part at the discretion of the Justice presiding in Part 40.

B. Non-Jury Trials

After a case concludes its time in Mediation-I, it is sent to Part 43. The Clerk of Part 43 will schedule a pre-trial conference as early as is practicable, for a date convenient for the Court. Counsel should come prepared to set trial dates within two months of the pre-trial conference, the Court's schedule permitting.

C. Trial Preparation/Trial Practice

- i. Marked pleadings and the bill of particulars shall be provided to the Court by plaintiff before the commencement of trial. EBT or hearing transcripts to be read or referred to during trial should be provided to the Court by the party planning to use them before the commencement of trial. If any part of an EBT or hearing transcript is to be read into evidence (as distinguished from mere use on cross-examination), counsel must, well in advance, provide the Court and the adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury.
- ii. Motions *in limine* shall be presented in writing to the Court as soon as is practicable after trial assignment, with a copy to all parties, or as specifically scheduled at any pre-trial conference. Any undue delay in presenting such motion, with a copy to all parties, may result in a delay in the trial's start date, waiver of such motion, or referral back to Part 40 for further action.
- iii. To the extent practicable, the parties shall endeavor to pre-mark exhibits for identification prior to the commencement of trial. Parties should stipulate to all facts and documents not in dispute prior to the commencement of trial. For jury trials, parties should have all stipulated documents, photographs and other exhibits pre-marked into evidence by the court reporter while the jury is not present.
- iv. For jury trials, the parties shall submit proposed verdict sheets and requests to charge (subject to amendment), citing the PJI sections, preferably before the commencement of trial, but not later than the start of the second day of trial.
- v. If a lawyer wishes to make an objection, it can be accomplished by standing and saying "objection," with a brief generic ground for the objection (e.g., hearsay, leading, relevance, asked and answered, etc.).
- vi. All remarks should be directed to the Court. Comments should not be made to opposing counsel.
- vii. Do not approach a witness without permission of the Court. Please allow the witness to complete his/her answer to your question before asking another question.
- viii. For non-jury trials, the parties shall submit proposed findings of facts and conclusions of law within ten (10) calendar days of the close of the record, unless otherwise directed by the Court.
- ix. Any post-trial motion shall be made by OSC within the time allotted pursuant to CPLR 4405.

- x. Trial extracts will be filed by the Part Clerk within 30 days of entry of the verdict or decision.

March 2015