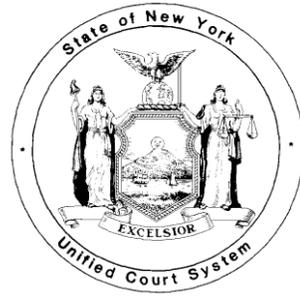


# NEW YORK COUNTY SUPREME COURT, CIVIL BRANCH



**Main Courthouse:**  
60 Centre Street  
New York, New York 10007

**Satellite Courthouses:**  
80, 100 and 111 Centre Street  
71 Thomas Street  
New York, New York 10013

## RULES OF THE JUSTICES

**[EMINENT DOMAIN RULES ADDED MAY 19, 2010, EFFECTIVE MAY 24, 2010;  
BACKGROUND INFORMATION UPDATED: MAY 14, 2019]**

The following constitute the rules of the Justices of the Supreme Court, Civil Branch, New York County (hereinafter "the Rules" or "the Local Rules") with the exception of the Justices of the Commercial Division. A separate set of uniform rules governs cases assigned to the Commercial Division.

**STRUCTURE OF THESE RULES:** The rules of the court are set forth immediately hereafter. These rules are applicable in the Parts of the court (excluding the Commercial Division) unless otherwise indicated in the Basic Information section that follows after the main body of the rules. The Basic Information section lists the Justices of the court in alphabetical order and a summary of the operational details of their Parts (e.g., motion days). Variations exist among the Parts in regard to such details. An attorney who wishes to know the requirements followed in a particular Part should consult the main body of the Rules together with the portion of the Basic Information section that pertains to that Part.

**CASE INFORMATION:** Information on the status of cases and activity therein and copies of decisions and other case documents are available in the Supreme Court Records On-Line Library ("*Scroll*"), which is accessible at no charge through the website of this court (at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)).

## RULES

In addition to the Rules that follow, procedures have been developed to simplify and expedite the submission of papers to the court in electronically-filed cases. Counsel are advised to consult the court's Protocol on Courthouse Procedures for Electronically Filed Cases (posted on the "E-Filing" page of this court's website at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). Parts II and IV of these Rules are inapplicable to condemnation and tax certiorari cases. Emergency medical hearings and proceedings under the Mental Hygiene Law have their own special rules. Part V is applicable to matrimonial cases only.

I

RULES REGARDING THE PUBLIC ACCESS ON-LINE PROJECT

1

## ("SCROLL")<sup>1</sup>

Rule A-1. Redaction of Information in Documents Filed with the County Clerk and the Court. Attorneys filing documents with the County Clerk or the Court, including those that fall within a category of document that is, as explained in the Court's Notice to the Bar on the Public Access Project, included in the *Scroll (Supreme Court Records On-Line Library)* Public Access Project system or that shall hereafter be so included, shall omit or redact from such documents confidential personal information as provided in Uniform Rule 202.5 (e).

Rule A-2. Application for Restriction of Access to Records. A party or person who claims that the availability of a document in the *Scroll* Public Access Project system may cause harm to that party or person or who seeks to limit access in compliance with Rule A-1 may apply to the Court for a directive restricting access. Any such application shall be made as follows. If the case has been assigned to a Justice, a request shall be made to the Justice by letter describing the document as to which a restriction on access is sought and explaining the reasons why such a restriction is appropriate. If the case has not been assigned to a Justice, the party shall direct such a request to the Administrative Judge. The Court on its own initiative may direct that access be restricted. An interested party or person may apply by letter to remove a document from the *Scroll* database if, notwithstanding these rules, a document is posted on the Public Access Project system that contains sensitive information access to which in this form causes harm to that party or person.

Rule A-3. Form of Restriction on Access to Records. Where the Court grants a request to limit access to a document in the *Scroll* Public Access Project system or issues a directive sua sponte, the directive shall take the form of an administrative direction to the staff of the Court that the document in question not be included in the *Scroll* system or, if already included therein, that it be deleted from the database. Any such directive as may be issued in a case in which documents are otherwise available in the *Scroll* system shall not affect the status of the County Clerk hard-copy case file, which is open to the public unless otherwise ordered by the Court pursuant to Part 216 of the Uniform Rules for the Trial Courts.

## II GENERAL RULES

Rule 1. Appearances by Counsel; Knowledge and Authority. Counsel who appear at preliminary conferences must have sufficient familiarity with the case and authority to be able to discuss a discovery schedule in a meaningful way and to enter into agreements with regard thereto. Counsel who appear at other conferences and at the argument of motions must be familiar with the entire case in regard to which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients.

Rule 2. Settlements and Discontinuances; Change of Counsel.

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<sup>1</sup> The Rules set out in Part I were first promulgated in a different form by Notice to the Bar dated July 7, 2006, with an effective date of Sept. 15, 2006.

(a) If an action is settled or discontinued, a stipulation shall be submitted promptly to the County Clerk with the appropriate fee (Cashier's Office, Room 160) and a copy shall be forwarded to the Part in question. If the case is otherwise disposed of, in whole or in part, counsel for the defendant affected shall immediately file a letter with the Clerk of the Part. If at the time of a settlement, discontinuance or other disposition a submitted motion is sub judice that is rendered moot, in whole or in part, by the disposition, or where a motion previously submitted is withdrawn, it is imperative that the Part be informed immediately.

(b) If counsel is changed on consent, a copy of the form shall be filed in the General Clerk's Office (Room 119). Filing with the County Clerk does not suffice. Absent submission of a consent form, an attorney of record will continue as such unless a motion for leave to withdraw is granted. If such an order is issued, counsel must serve a copy on the General Clerk's Office and all other counsel. A notice of appearance shall be filed by substitute counsel with the General Clerk's Office and the Clerk of the Part.

Rule 3. Information on Cases. County Clerk data, case history information from the court's Civil Case Information System, and many documents from the case file of most cases in the court (e.g., pleadings, decisions, orders, notes of issue, judgments) are available on-line in the *Supreme Court Records On-Line Library (Scroll)* of the County Clerk of New York County and the New York County Supreme Court, accessible on the court's website at [www.nycourts.gov/supctmanh/](http://www.nycourts.gov/supctmanh/). Decisions of the court with County Clerk entry stamp are posted in *Scroll* very promptly after their issuance. Information on scheduled court appearances and other case activity, including the issuance of decisions and orders, can also be obtained from *Scroll*, as well as from *e-Track*, the court system's case tracking and notification service, private services, courthouse terminals, or the *New York Law Journal*. The Clerk of the Part can also provide information about scheduling in the Part (trials, conferences, and arguments on motions in the Part). Counsel should not telephone Chambers.

Rule 4. Papers by Fax. Unless indicated otherwise by the court in a particular case or in the Basic Information section below, Justices do not accept papers by fax.

### III CONFERENCES AND DISCOVERY

Rule 5. Preliminary Conferences; Requests.

(a) A preliminary conference will be held or, in Motor Vehicle cases and most tort cases against the City of New York, an automated Differentiated Case Management ("DCM") scheduling order issued (i) within 45 days of assignment of a case to a Justice, unless impracticable for unusual reasons; or (ii) where a Request for Judicial Intervention is accompanied by a dispositive motion, within 45 days following disposition of such motion (if the case is not mooted by that disposition). Cases will be assigned to a DCM track (see Uniform Rule 202.19 (b)) upon filing. The court will afford all parties an opportunity to raise objections to the track assignment or any DCM scheduling order issued without a conference. Requests for preliminary conferences in unassigned cases should be filed with an RJL in the General Clerk's Office (Room 119). In assigned cases, if the court itself does not direct a conference in a decision nor issue an order scheduling pretrial proceedings, counsel should contact the Part Clerk.

(b) The court utilizes distinct forms of preliminary conference order in General, Medical, Dental and Podiatric Malpractice, City, Matrimonial, and Motor Vehicle cases. See the website (at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh), under "Forms") for these forms.

Rule 6. Adjournments of Conferences. Except as otherwise provided in the Basic Information section above or in Rule 26, adjournment of conferences will be allowed only as follows. The parties may adjourn any preliminary conference once for no more than 21 days, but only by submission of a written stipulation to the Part Clerk on or before the scheduled date thereof. Appearance by counsel is not required. Further adjournment of preliminary conferences and adjournments of compliance and pretrial conferences will be allowed only with permission of the court for good cause.

Rule 7. Consultation Prior to Preliminary and Compliance Conferences. Prior to a preliminary or compliance conference, counsel for all parties shall consult one another about, and shall make a good faith effort to reach agreement on, (i) resolution of the case, in whole or in part, and (ii) discovery and any other issues to be discussed at the conference.

Rule 8. Discovery Schedule. Strict compliance with all discovery orders is required. See *Kihl v. Pfeffer*, 94 N.Y.2d 118 (1999). Unexcused or unjustified failure to comply with deadlines fixed by the court, including those set out in Preliminary Conference Orders, may result in an award of costs, conditional or otherwise, or the imposition of another penalty authorized by CPLR 3126. Unless otherwise provided in the Basic Information section above or in the order, no extensions of deadlines set forth in a preliminary conference, compliance conference or other discovery order shall be allowed except with permission of the court for good cause shown.

Rule 9. Medical Authorizations. When a defendant in a personal injury action serves a demand for authorizations together with a demand for a bill of particulars, counsel for plaintiff shall serve the authorizations with the bill.

Rule 10. Disclosure Disputes. Prior to making a discovery motion, counsel shall consult one another in a good faith effort to resolve any discovery disputes (see Uniform Rule 202.7). If a dispute is not thus resolved, the party seeking disclosure, unless otherwise directed in the Background Information section above, is advised to contact the Part Clerk promptly, and within any applicable deadline, for the purpose of arranging a conference, in court or by telephone.

Rule 11. Expert Disclosure. Unless otherwise directed by the court in a preliminary conference order or otherwise, a party having the burden of proof shall serve a response to an expert demand pursuant to CPLR 3101(d) no later than 30 days prior to the date set by the court for trial. Within 15 days after receipt of this response any adverse party shall serve its response.

Rule 12. Conferences Regarding Settlement of Actions by Infants and Others. Any proposed infant's compromise or other proposed settlement pursuant to CPLR 1207 shall be considered by the court at an appearance in court on the record. An attorney seeking approval of such a proposal shall serve on all parties, at least five days prior to the scheduled appearance, a Notice of Conference on Proposed Infant's [or other] Compromise. This Notice shall indicate the date, time and place of the conference. A copy of the proposed order of approval shall be annexed to the Notice unless previously served upon all parties. Said attorney shall submit to the court at the conference proof of service of such Notice.

## IV MOTIONS

### Rule 13. Motions on Notice; Orders to Show Cause.

(a) Motions brought by notice of motion shall be made returnable in the General Clerk's Office Motion Submission Courtroom (Room 130. Relevant procedures are explained on the court's website (see "Courthouse Procedures" at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). Depending upon the assigned Part, contested motions submitted in the Motion Submission Part Courtroom are submitted without argument, or rescheduled for oral argument if so directed by the assigned Justice. For Justices who schedule argument on a case-by-case basis, notice of the argument date will be transmitted by the court. Counsel may ascertain how a motion submitted in Courtroom 130 was marked by consulting *Scroll* on the court's website, the *e-Track* application, or, on the two days immediately following the submission date, the New York Law Journal.

(b) Motions should be brought on by order to show cause only in a proper case (CPLR 2214 (d)). Unless otherwise directed in the Basic Information section above or in an order to show cause, original opposition papers on orders to show cause made returnable in the Part shall be delivered to the Part Clerk at least one business day prior to that date and reply papers should not be submitted.

### Rule 14. Motion Papers.

(a) Counsel must attach to motion papers copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion. Documents in a foreign language shall be properly translated (CPLR 2101(b)). Whenever reliance is placed upon a decision or other authority not officially published or readily available to this court, a copy of the case or of pertinent portions of the authority shall be submitted with the motion papers. Courtesy copies shall not be submitted unless requested by the court, but working copies are required in some Parts in electronically filed cases (see the court's Protocol for e-filed cases on the website ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh), under "E Filing")). Exhibits should be tabbed and be legible; a typed version of any exhibit that is difficult to read should be submitted with the original. Exhibits printed on both sides of the page should be bound and tabbed on the side.

(b) Unless advance permission otherwise is granted by the court for good cause, memoranda of law shall not exceed 30 pages each (exclusive of table of contents and table of authorities) and affidavits/affirmations shall not exceed 25 pages each.

(c) The CPLR does not provide for sur-reply papers, however denominated. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Submission Part Courtroom (Room 130), or after argument in the Part, if any, except with the advance permission of the court. Materials presented in violation of this Rule will not be read.

### Rule 15. Oral Argument; Adjournments.

(a) Calendars of motions to be argued in the Parts are published on the morning of the argument date and on the day before in the New York Law Journal under each Part. Argument

information is available on a case-by-case basis in *Scroll*, and e-mail notifications are sent by *e-Track* to participating attorneys whenever a motion is scheduled for argument in the court's computer system.

(b) Unless provided otherwise in the Basic Information section: argument may be adjourned for good cause; there shall be only one adjournment, for no more than 14 days, unless otherwise directed by the court. A request for an adjournment shall be made prior to the scheduled date.

#### Rule 16. Orders.

(a) A copy of any order affecting the caption of a case (e.g., amendment, substitution, correction of errors) shall be served by counsel upon the General Clerk's Office (Room 119) and upon the County Clerk (Room 141B) so that the court's records and the County Clerk's records may be corrected. A copy of any order affecting the trial status of a case (e.g., striking a note of issue) shall be served on the General Clerk's Office.

(b) Proposed counter-orders submitted to the court pursuant to Uniform Rule 202.48 (c) (2) shall be marked to identify all respects in which the proposal differs from the submission to which it responds.

Rule 17. Motions for Summary Judgment. Unless otherwise provided in a particular case in the preliminary conference order or other directive of the Justice assigned, a motion for summary judgment shall be made no later than 120 days after the filing of the note of issue, except with leave of court for good cause shown.

Rule 18. Neutral Evaluation Program. City cases and many other cases will be referred to the court's Neutral Evaluation Program (informally known as "Mediation") after filing of the note of issue. The procedures of this program are available on the court's website ([www.nycourt.gov/supctmanh](http://www.nycourt.gov/supctmanh) under "ADR Programs").

## V TRIALS

This section sets forth trial procedures generally applicable to cases to be tried in pure IAS Parts (i.e., not including cases scheduled for trial through the Administrative Coordinating Part (Part 40 or Part 40 City for City cases). However, since the nature of particular cases may make departure from these rules efficient and appropriate, counsel should in every instance confirm with the court at the pre-trial conference the Justice's directive regarding applicability of these procedures to the case.

Rule 19. Pretrial Conference. In cases to be tried in IAS Parts (i.e., not including cases scheduled for trial through the Administrative Coordinating Part (Part 40 or Part 40 City)), the court will conduct a pretrial conference at which settlement will be explored and a trial date will be confirmed or a firm date set. Prior to the pretrial conference, counsel shall confer in a good faith effort to identify issues not in contention, resolve all disputed questions without need for court intervention, and settle the case. Unless otherwise directed by the court, each party must be represented at the pretrial conference by

counsel having full knowledge of the case and specific authority to settle or the ability immediately to contact by telephone a person with such authority. To permit the fixing of a trial date, counsel must, prior to the conference, consult their own schedules and those of their witnesses and be prepared to furnish a realistic estimate of the trial's length and discuss a suitable trial date unless previously fixed.

Rule 20. Trial Schedule in Pure IAS Parts.

(a) Insofar as possible, trials in pure IAS Parts will be scheduled at least one month in advance. As the schedules of counsel and witnesses will have been taken into account in determining the trial date, counsel will be expected to be ready to proceed at that time either to select a jury or to begin presentation of proof. Hence, once a firm trial date is set and counsel are so informed, counsel must immediately reconfirm the availability of witnesses and their own schedules. If for any reason, including trial commitments in other Parts or courts, counsel are not prepared to proceed on the scheduled date, counsel must inform the court of the difficulty within seven days of the date on which counsel were given the firm trial date. Absent extraordinary circumstances, failure of counsel to provide such notification will be deemed a waiver of any objection to the trial date.

(b) The court will endeavor, through contact with Justices in other Parts and courts, to resolve trial scheduling difficulties for counsel who notify the court in accordance with subdivision (a) of this Rule and in instances of extraordinary and unanticipated conflicts. The court will resolve such problems in accordance with Part 125 of the Rules of the Chief Administrator (Uniform Rules for the Engagement of Counsel), taking into account the need to conserve judicial trial time or the time of jurors, the demands upon trial counsel, and the importance of the clients' right to the attorney of his or her choice.

(c) The jury shall be selected in accordance with Uniform Rule 202.33.

Rule 21. Pretrial Identification of Exhibits and Deposition Testimony in Pure IAS Parts. Counsel for the parties shall consult prior to trial and attempt in good faith to agree upon the exhibits and portions of deposition testimony (with the deletion of irrelevant matter) that will be offered into evidence on the direct case without objection.

Rule 22. Marked Pleadings and Other Pre-Trial Submissions in Pure IAS Parts. In cases to be tried in IAS Parts, unless the court directs otherwise, at least ten days prior to trial or at such other time as the court may direct, counsel shall submit to the court marked pleadings, the bill of particulars, and a list of witnesses (direct case); and in a jury case, requests to charge, a proposed verdict sheet, and, as appropriate, a memorandum of law or copies of authorities addressed to any unusual jury charge requests; and, in all jury cases in which doing so will facilitate efficient presentation of proof and in all non-jury cases, pretrial memoranda. If counsel wishes the court to charge verbatim from the Pattern Jury Instructions, it is sufficient if the request cites the PJI charge by number only. All other requested charges should be written out in full.

Rule 23. Subpoenaed Records. Subpoenaed records should be directed to and may be reviewed at the Subpoenaed Records Office, 60 Centre Street, Room 145 M.

VI  
MATRIMONIAL RULES

The following Rules shall apply to all matrimonial cases and shall take precedence over any inconsistent Rule set forth above. Otherwise, the foregoing rules are applicable in matrimonial cases.

Rule 24. Appearances at Conferences. Counsel and client must appear at the preliminary conference, all compliance conferences and the pre-trial conference. Failure to appear may result in costs or sanctions being imposed against the defaulting party.

Rule 25. Submissions at Preliminary Conference. Each party is required to submit at the preliminary conference a properly certified net worth statement and a copy of the retainer agreement in accordance with Section 202.16 of the Uniform Rules for the Trial Courts.

Rule 26. Adjournments. No stipulations of adjournment will be honored without prior approval of the court.

Rule 27. P.E.A.C.E. Program. Except for cases in which there has been a history of orders of protection, parties with unemancipated children should be aware that the Justice may assign the parties to the P.E.A.C.E. Program.

Rule 28. Pre-Trial Conference. Unless directed otherwise, all cases scheduled for trial must appear for a pre-trial conference on a date set by the court. All motions *in limine* must be presented at this time and counsel should be prepared to discuss all evidentiary issues.

Rule 29. Mandatory Pre-Trial Submissions. At the pre-trial conference, counsel shall provide his or her adversary and the court (a) marked pleadings (if grounds are in issue), (b) proposed statement of disposition, (c) child support worksheet (if applicable), (d) updated net worth statement, (e) list of all proposed exhibits, (f) witness list, (g) any expert report not previously provided, (h) pre-trial memoranda and (i) proof of filing of the note of issue.

## VII EMINENT DOMAIN

These local rules supplement Uniform Rule § 202.61 with respect to the obtaining of Index Numbers for Claims and the Exchange and Filing of Appraisal Reports in Eminent Domain Proceedings.

Rule 30. Index Numbers for Fee Claims. Within sixty days from the expiration of the time set forth, pursuant to EDPL 503 (B), in an order of acquisition for the filing of written claims or notices of appearance, condemnor shall obtain an index number for each of the fee claims on file with the court pursuant to the said order so that the Clerk can separately maintain the claim and all further proceedings with respect thereto, and the condemnor shall notify the claimant or its attorney of record of the index number assigned to its claim. Thereafter, papers pertaining to each claim shall be separately prepared and filed under the index number assigned to the claim. A Request for Judicial Intervention is required to initiate proceedings before the court pertaining to a claim.

Rule 31. Index Numbers for Fixture Claims. Within six months after appraisals of fixtures have been exchanged pursuant to Uniform Rule § 202.61 (a)(1), condemnor shall obtain an index number for each individual claim for which an appraisal has been exchanged so that the Clerk can separately maintain the claim and all further proceedings with respect thereto, and the condemnor shall notify the claimant or its attorney of record of the index number assigned to its claim. Thereafter, papers

pertaining to each claim shall be separately prepared and filed under the index number assigned to the claim. A Request for Judicial Intervention is required to initiate proceedings before the court pertaining to a claim.

Rule 32. Submission and Filing of Appraisal Reports. In all proceedings for the determination of the value of <sup>property</sup> taken pursuant to eminent domain, counsel may request that the court modify the procedure set forth in Uniform Rule § 202.61 for the exchange of appraisal reports. Within the nine-month period for filing of appraisals set forth in Rule § 202.61 (a), the parties may agree by stipulation, and present same to the court for approval, to a direct exchange of appraisals without filing copies of appraisals with the court. Thereafter, the parties may extend the date for exchange of appraisal reports set forth in the stipulation by further stipulation, without court approval, for no more than an additional nine months, provided such stipulation(s) are filed with the Clerk of the court. In such event, a copy of each exchanged appraisal shall be provided to the court upon the earlier of (i) its request or (ii) a pre-trial conference called upon the filing of a note of issue. Original appraisals shall be retained for presentation as an exhibit at trial.

Rule 33. Index Numbers for Other Matters. If the condemnor seeks relief against a person who has not filed a claim, the condemnor shall commence a special proceeding or action as may be appropriate.

## BASIC INFORMATION

(Rooms are located at 60 Centre Street unless otherwise indicated.)<sup>2</sup>

**HON. NANCY M. BANNON** Part 42, *IAS General Assignment Part*, Room 1127B, 111 Centre Street, Phone: 646-386-3237  
**Court Attorney:** Lawrence A. Goldberg, Esq. **Courtroom Part Clerk:** Jerome Noriega  
**Chambers:** 111 Centre Street, Room 448 New York, NY 10013 646-386-5587 Fax: 212-457-2684

**Oral Argument on All Motions:** Wednesdays at 9:30am in the Trial & Motion Courtroom

**All Conferences:** Thursdays at 9:30am in the Trial & Motion Courtroom

- **Communications with the Part Clerk and Chambers**
  1. For all motions pending in the Submissions Part (60 Centre Street, Rm. 130), follow that part's rules regarding adjournments, scheduling, and withdrawals.
  2. After motions are fully submitted in the Submissions Part, they are forwarded to Justice Bannon's Part. If oral argument is requested, such request must be indicated on the notice of motion. Do not send letters to Chambers or the Part Clerk requesting oral argument.
  3. DO NOT call Chambers regarding scheduling matters and requests for adjournments. Please contact the Part Clerk for instructions.
  4. All requests for adjournment must be approved in advance. Without prior approval, a stipulation will not be accepted and any failure to appear will be considered a default.
    1. To make your request, please call the Part Clerk, not chambers, at least two (2) days prior to the scheduled appearance by conference call with all counsel on the line. Alternatively, a request may be made by fax with a carbon copy to all parties. All adjournment requests must provide a reason for the request. If approved, you will receive a new date and further instructions, such as submitting a stipulation.
    2. Except for emergency situations, adjournments for Wednesday morning motions will not be given if the application is made less than 48 hours before the scheduled appearances and you may be defaulted for non-appearance.

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<sup>1</sup> The motion days set forth in this section consist of the days on which Justices normally hear motions that have been submitted in the Motion Submission Part Courtroom (Room 130) and then rescheduled for argument in the relevant Part. However, Justices may of course schedule argument on orders to show cause at other times as need requires.

5. NO *ex parte* communications.
  1. Unless specifically instructed, please do not call or email chambers. If specifically instructed to call chambers regarding a pending matter, such call may be placed only by attorneys or pro se parties if not represented by an attorney. No law office employees, assistants, or aides may call chambers.
  2. Do not copy the Court on letters exchanged between counsel.
6. DO NOT write letters or emails to the Court unless you:
  1. seek to withdraw a motion in whole or in part;
  2. wish to advise the court that a case has settled; or
  3. were granted leave to do so at oral argument or by the Court.
7. If a motion has been withdrawn or the case has been settled or otherwise discontinued, please notify the Part Clerk immediately and fax a stipulation executed by all affected parties.
8. DO NOT call the Part Clerk or Chambers for a status update or to ask whether a decision has been issued. All decisions and orders are scanned and available on the internet (eCourts or SCROLL).

• **Appearances before the Court/Motion Practice**

1. Attorneys appearing before Justice Bannon must be thoroughly familiar with the case.
2. Courtroom comments and demeanor:
  1. Please do not "talk over" each other. Only one person speaks at a time.
  2. It is called "oral argument," but that does not mean you are here to fight with the Court or opposing counsel. Please present your arguments in a cogent, calm, and courteous manner.
  3. All remarks should be directed to the Court, not to opposing counsel.
3. General Motion Instructions
  1. Part 42 is an e-filing part. Any questions regarding the e-filing system should be addressed to the E-Filing Office at 646-386-3610 or at [newyorkef@nycourts.gov](mailto:newyorkef@nycourts.gov).
  2. Motions with opposition will be scheduled for oral argument in the Trial & Motion Courtroom for the next available Wednesday at 9:30am.
  3. Motions submitted without opposition are generally not scheduled for oral argument.
  4. Motion Sequence Number: the first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper right corner.
  5. Working copies or courtesy copies of motion papers are NOT required. If you wish to submit hard copies, DO NOT send them to chambers. Any hard copies of motion papers must be properly filed with the Submissions Part in accordance with that Part's rules. Please ensure that any staples are not protruding.
  6. Counsel should not submit a single .pdf file under a single document number for all papers submitted on a motion. Each e-filed document must have its own, respective document number (e.g. Doc # 15, Notice of Motion; Doc # 16, Attorney Affirmation; Doc # 17, Affidavit; Doc # 18, Exhibit A; and Doc # 19, Exhibit B).
  7. Exhibits:
    1. Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations to the exact page within the exhibit.
    2. All exhibits electronically submitted must be described in the heading of the attached exhibit (e.g. Exhibit A, Bill of Particulars; Exhibit B, Photographs), so that it is known what document is filed in the exhibit.
  8. If there is any discrepancy between the relief sought in the notice of motion and the relief sought in the supporting papers, the notice of motion is controlling.
  9. Once motions are fully submitted, the Court will not allow any further submissions. Letters to the Court after oral argument or full submission regarding a pending motion that was fully submitted will not be accepted.
  10. If you want to withdraw a motion after the motion leaves the Submissions Part, please inform the Part Clerk immediately and fax a stipulation executed by all affected parties. If the motion is in the Submissions Part, please follow that Part's rules to withdraw.
4. Orders to Show Cause:
  1. Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at 646-386-3125.
  2. All parties must submit hard copies of motion papers filed with an order to show cause to the Part Clerk in the courtroom, Room 1127A.
  3. Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary or proof the adversary was notified but declined to appear when the application is presented for signature.
  4. Orders to show cause will be returnable in the Part. Responsive papers to orders to show cause must be delivered to the courtroom at least 4 days prior to the return date unless the Court indicates otherwise.
  5. Absent an emergency, orders to show cause may not be adjourned.

5. Motions to Renew/Reargue: All motions to renew or reargue must contain all papers submitted on the original motion and a copy of the Court's decision. There is no oral argument on these motions.
  6. Discovery motions are strongly discouraged.
    1. If a discovery dispute arises, any party, in lieu of filing a motion, may request an expedited conference by calling the Part Clerk. Conferences requested on an expedited basis will be granted only at the Court's discretion.
    2. If a party has made a formal discovery motion, a conference will be scheduled for the same date as oral argument and will be conducted prior to counsel being heard on the motion.
  7. Summary Judgment Motions: All summary judgment motions must be made no later than 60 days after filing the note of issue. Counsel's affirmation in support must include the note of issue filing date. Discovery must continue while any CPLR 3212 motion is pending.
- **Note of Issue:** If all parties agree that discovery is complete before the final compliance conference, the final conference may be avoided by e-filing or faxing a stipulation to the Part Clerk at least two (2) days prior to the scheduled conference. The stipulation must certify that all discovery is complete and provide for the filing of the note of issue.
  - **Conferences**
    1. Counsel attending the conference are expected to be familiar with the case and have authority to discuss and stipulate to resolve all discovery issues.
    2. At each compliance conference, counsel must bring a list of all discovery previously ordered, but not yet completed, as well as new discovery requested which could not have been previously addressed. Failure to address all outstanding discovery existing at the time of the compliance conference may be deemed a waiver of the right to obtain said discovery.
    3. Please bring all prior conference orders and stipulations to the conferences.
    4. Counsel are assumed to have consulted clients, examining doctors, etc. regarding their availability for EBTs, IMEs, etc.
    5. Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading may be stricken. Any motion to vacate such a default must fulfill the requirements of CPLR 5015.
    6. Conference Orders
      1. Please write legibly and press hard. Names, addresses, and telephone numbers of all counsel appearing at the conference must be indicated.
      2. In a Preliminary Conference form, all items must be completed or marked "n/a" if not applicable.
      3. Use firm cut-off dates, such as "on or before December 31, 2015." Do not use "within 45 days," etc. Counsel will be held to the dates to which they commit.
      4. Non-specific statements such as "all discovery not yet provided" or "unless otherwise provided" or "to the extent not yet provided" will not preserve any rights. Each attorney is expected to know what has and has not been provided.
      5. Counsel are free to take a picture of a stipulation or order on their phone. However, please keep in mind that all orders will be scanned and available on eCourts and/or SCROLL.
    7. DO NOT leave the courtroom until either the Justice or her Court Attorney have reviewed your completed forms.
    8. It is preferable that you wait in the courtroom for a signed copy of the order. However, you may, if you choose, leave the courtroom once the Court Attorney has reviewed the proposed order/stipulation.
    9. This part requires compliance with court-ordered deadlines set forth in the preliminary/compliance/ status conference order(s). Failure to adhere to deadlines or to comply with orders may result in serious penalties.
  - **Trials**
    1. Upon the first appearance before this Court, the parties must furnish the following:
      1. A list of proposed witnesses, including the need for any interpreters with the required language and dialect;
      2. An estimate of required trial days;
      3. All marked pleadings and bills of particulars;
      4. All prior decisions in the case, including any appellate decisions;
      5. Any notices to admit;
      6. Copies of those portions of EBTs intended for use at trial for any purpose;
      7. A trial memorandum, not to exceed five (5) pages, briefly setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law; and
      8. Two (2) business cards for each attorney.

2. Prior to the start of trial, the parties must furnish the following:
  1. All *in limine* or other applications. All motions *in limine* must be presented in writing to the Court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties. Any such motion or application must include citations to relevant authority.
  2. For jury trials:
    1. Proposed jury instructions. If the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI numbers will suffice. If a PJI instruction is not verbatim or requires characterization or description of the evidence or the parties contentions, or if the language is not based on the PJI, the exact requested language, together with the authority for it, must be submitted in Word or Word Perfect format to [lgoldber@nycourts.gov](mailto:lgoldber@nycourts.gov) and to opposing counsel simultaneously;
    2. Proposed jury verdict sheet must be submitted in Word or Word Perfect format to [lgoldber@nycourts.gov](mailto:lgoldber@nycourts.gov) and to opposing counsel simultaneously.
3. Parties are strongly encouraged to have the court stenographer pre-mark all exhibits for identification and/or evidence if without objection.
4. It is the duty of counsel, not court personnel, to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.
5. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency. Trials are held every day of the week except Wednesday mornings and Thursday mornings. No adjournments will be granted if a witness is unavailable to testify unless the court concludes, in rare instances, that good cause exists.

**HON. LUCY BILLINGS** Part 46, Asbestos Part, Room 204, 71 Thomas Street, Phone: 646-386-3279

**Motions:** Thurs., 9:30 AM

**Conferences:** Thurs., 2:15 PM

**HON. ARLENE P. BLUTH** Part 32, Room 432, New York, New York 60 Centre Street, Room 432, New York, New York 10007

**NOTE: THIS PART REQUIRES HARD COPIES OF MOTION PAPERS TO BE SUBMITTED IN ROOM 130**

Principal Court Attorney: Gregory L. Schneider

Assistant Law Clerk: Mahnoor Misbah

Courtroom Part Clerk: Thomas Maser: 646-386- 5607

**For non e-filed cases:** Parties are strongly encouraged to go to [nycourts.gov](http://nycourts.gov) or <https://iapps.courts.state.ny.us.webcivil> and click on e-Track to register so that you can follow your case. This service is free.

#### **FORECLOSURE RULES:**

**Oral Arguments and Conferences:** Thursdays at 10:00 a.m.

1. Motions: The Court requires hard copies of motion papers to be submitted in Room 130.
  - A. **Hard copies of exhibits must be printed on both sides.**
  - B. Adjournments of Motions: All requests for adjournments must be received by Tuesday at noon.
    1. For paper cases, please fax a stipulation signed by all appearing parties to (212-618-7997).
    2. For e-filed cases, please upload a stipulation signed by all appearing parties to NYSCEF.
2. Conferences
  - A. Be prepared to discuss the status of the case and have settlement authority.
  - B. Adjournments of Conferences: Please submit an adjournment request by fax (212-618-7997) for paper cases and by NYSCEF for e-filed cases before Tuesday at noon. The request must contain a stipulation signed by all appearing parties or the adjournment may not be granted. If only one side has appeared in the case, please explain that in your request.
3. Unless specifically stated above, the following rules also apply to foreclosure cases.

#### **FOR ALL NON-FORECLOSURE CASES:**

**Oral Argument on Motions:** Tuesdays at 10:00 a.m

**Conferences:** Tuesdays at 2:15 p.m

#### **1. Communications with Part Clerk and Chambers – Including Adjournments**

**NO EX PARTE COMMUNICATIONS: Do not call or e-mail the Justice or her Court Attorneys unless specifically instructed.**

A. Settlements: At any point in the litigation, please notify the Part Clerk immediately after a case settles so we can mark the case accordingly. If a pending motion is sought to be withdrawn, notify us immediately. If the Court does not receive a request to refrain from making a decision, any decision rendered on a motion will not be withdrawn and it may interfere with settlement.

B. *Requests for Adjournments/Scheduling Matters*

1. Motions in Room 130: Follow Room 130's rules for adjournments.

2. Motions (Including OSCs) in the Courtroom: Parties may seek an adjournment by faxing to 212-618-7997 (for paper cases), or uploading to NYSCEF (for e-filed cases), a fully executed stipulation signed by all counsel that must be received by 1 p.m. the Friday prior to the scheduled appearance.

a. **Do not call Mr. Maser to request an adjournment.** Please request three future Tuesday mornings within the next three months and the Court will do its best to pick one of these dates. Absent good cause, no adjournments will be considered after 1:00 p.m. on Friday. Check SCROLL or E-Courts for the adjourned date.

3. Conferences in the Courtroom: Parties must follow the same rules for motions in the courtroom. However, **a conference may only be adjourned once** and the parties must appear on the rescheduled date. Subsequent requests to adjourn a scheduled conference will not be considered. No adjournments will be considered after 1:00 p.m. on Friday.

**2. Appearances before the Court/Motion Practice/Page Limits**

A. If a case **settles** while a motion is pending, see (I) (A) above.

**B. Attorneys appearing before Justice Bluth must be familiar with the case and prepared to discuss settlement. Pre-arrange to have your client reachable by telephone.**

C. Please read these rules carefully. **Your papers may be disregarded for failure to follow these rules.** The failure of the movant to follow these rules may result in the denial of the motion with leave to bring it again upon proper papers, but absent good cause no deadline will be extended.

D. General Motion Guidelines.

1. **E-Filed papers**: The Court requires hard copies of all e-filed motion papers to be submitted in Room 130 and they will be delivered to Chambers with the motion. Do not submit copies directly to chambers unless specifically requested.

2. **Motions with opposition**, after being fully submitted in room 130, will be rescheduled for oral argument for a Tuesday morning in the Part 32 Courtroom.

3. **Motion Sequence Number ("MSQ")**: Often several motions are submitted at the same time. To keep papers organized, the first page of EVERY motion paper must reflect the respective MSQ in the upper right corner.

4. **Exhibits**:

(i) **Tabs**: All exhibits must be identified by protruding tabs.

(ii) **Referring to exhibits**: Each page in any exhibit must be numbered. Reference to any exhibit **must include pinpoint citations** so the exact location within the exhibit can be found easily. Likewise, any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions".

5. For non-discovery motions, unless advance permission is granted, memoranda of law shall not exceed 25 pages (exclusive of table of contents and authorities) and affirmations/affidavits shall not exceed 25 pages each. Reply affirmations shall not exceed 15 pages. *For discovery motions, see below.*

E. **General Orders to Show Cause**: Please note that you must bring the OSC from the ex parte part, even in e-filed cases, to the courtroom. Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary (or with proof the adversary has been notified but declined to appear) when the application is presented for signature.

F. **OSC to be relieved as counsel**: Do not bring your adversary, but provide enough information for Justice Bluth to fashion a method of service likely to reach your client.

G. **Motions/special proceedings submitted on default** in Room 130 are **not** scheduled for oral argument. However, **the movant must make certain to submit hard copies of the motion papers to Room 130, including affidavits of service**, even for e-filed motions.

H. **Discovery Motions: No discovery motions are allowed until after a preliminary conference is held.**

1. If good faith efforts to resolve the dispute do not succeed, the party may seek to advance the next scheduled conference or bring a motion for relief. Exclusive of exhibits, this motion should not be longer than 5 pages in length and must include at least a full paragraph detailing the good faith efforts (with names and dates) and that it was unsuccessful. The opposing party's response shall not be longer than 5 pages in length.

J. **Summary Judgment Motions**

1. **Discovery is to continue during the pendency of a CPLR 3212 motion**, unless good cause is shown why discovery should be stayed. A stipulation between parties will not suffice.
2. Timeliness: **All summary judgment motions must be made no later than 120 days after filing of the note of issue** - there are no exceptions without leave of Court. Absent good cause for late filing, a late motion will be denied even if your adversary does not object.
3. Cross-motions that seek relief against a party other than the party making the initial motion DO NOT relate back to the date the original motion was made and must be filed within 120 days of the filing of the note of issue. Cross-motions made against the initial movant DO relate back and will be considered.

<http://www.nycourts.gov/supctmanh3>. **Conferences** (Preliminary, Compliance, Status, Pre-Trial)

A. The rules of this part require compliance with court-ordered deadlines. The failure to adhere to deadlines and comply with orders may result in serious penalties. **Counsel attending the conference are expected to be thoroughly familiar with the case, have the authority to discuss and stipulate to resolve all discovery issues and be prepared to discuss settlement.** See also rule 2B above.

B. Please bring copies of all prior conference orders and stipulations to the conferences. If you have any motions pending in the Motion Submission Part, or which are *sub judice*, please bring this to the attention of the Part 32 Clerk.

1. Counsel are assumed to have consulted with your clients regarding their availability for depositions.
2. Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading may be stricken. Any motion to vacate such a default must be brought by OSC and must fulfill the requirements of CPLR 5015.

C. Instructions Applicable to Conference Orders and Stipulations

1. **Non-specific statements such as "all discovery not yet provided" or "unless otherwise provided" or "to the extent not yet provided" will not preserve any rights. Counsel must know what has and has not been exchanged and must be prepared to resolve discovery issues.**

2. **Note of issue dates to be determined at the close of discovery. A note of issue may not be filed until there is a conference order granting permission.**

3. Trial authorizations must be provided 90 days before trial.

**HON. ANTHONY CANNATARO** Part 41 Courtroom 490 111 Centre Street, New York, NY 1001 Part Clerk/Courtroom Phone: 646-386-3816  
Chambers Phone: 646-386-5442/3963

Principal Law Clerk: Mr. Michael Faleck, Esq., [mfaleck@nycourts.gov](mailto:mfaleck@nycourts.gov)  
Assistant Law Clerk: Ms. Alice Goldenberg, Esq., [agoldenb@nycourts.gov](mailto:agoldenb@nycourts.gov)  
Part Clerk: Mr. Allan Croney; [acroney@nycourts.gov](mailto:acroney@nycourts.gov)

**Oral Argument on Motions:** Wednesday mornings at 9:30am (or as otherwise scheduled by the Court)

**Pre-Trial Conferences:** As scheduled by the Court

**Preliminary, Compliance, and Status Conferences:** Wednesday afternoons at 2:15pm (or as otherwise scheduled by the Court)

#### **GENERAL**

1. All parties or their counsel must familiarize themselves with these Practice Rules and the Rules of the Justices of the Supreme Court, Civil Branch, New York County (the "Local Rules").
2. Counsel and litigants (represented or self-represented) are advised that Justice Cannataro, his Law Clerks, and Part Clerk will not engage in any *ex parte* communications.
3. The Part Clerk is unable to accept deliveries any day except Wednesday. For deliveries on any other day, please come to 109-113 White Street.
4. Counsel must notify the Court, as soon as practicable, by conference call or e-mail, of any settlement or resolution of active cases or pending motions, so as to avoid the unnecessary use of Court resources on matters that are resolved or will imminently be resolved.

#### **COMMUNICATIONS TO PART 41**

1. **Justice Cannataro does NOT accept any letters, documents, or papers by e-filing, mail, or facsimile unless expressly permitted by these Practice Rules or by prior approval of the Court.**

2. There will be **no** *ex parte* communication with the Court. Justice Cannataro's Law Clerks will accept phone calls with all parties on the line.
3. **Do not** copy the Court on letters exchanged between parties.
4. Part 41 is a **pure e-filing part**. Working copies of motions/documents are not required. **Please do not send courtesy copies of any documents that were e-filed**, with the following exceptions:
  - a. **Documents requiring Justice Cannataro's signature, including proposed orders and stipulations, must be e-filed, AND the original must be sent to Justice Cannataro by either mail or delivery service** (e.g., proposed/settled orders, stipulations, or transcripts to be "so-ordered");
  - b. Proposed orders to show cause.

#### **ADJOURNMENTS**

1. All adjournments (motions, conferences, trials) require prior court approval. *Ex parte* applications for adjournments will **not** be considered.
2. Requests to **adjourn a conference**, in the first instance, shall be directed to the Part Clerk at 646-386-3816 or [acroney@nycourts.gov](mailto:acroney@nycourts.gov). Conferences will only be adjourned **by stipulation**. The parties must first consult with the Part Clerk before selecting a new date for the conference. Applications to adjourn a conference shall be made **at least 24 hours** in advance of the scheduled conference. Parties may adjourn a conference **no more than two times**, and for no more than **a total of three (3) months**.
3. Requests to **adjourn a motion that is scheduled for oral argument**, in the first instance, shall be directed to the Part Clerk at 646-386-3816 or [acroney@nycourts.gov](mailto:acroney@nycourts.gov). Motions will only be adjourned **by stipulation**. The parties must first consult with the Part Clerk before selecting a new date for oral argument. Applications to adjourn a motion should be made **at least 48 hours** in advance of the oral argument.
4. To **adjourn a motion that is in the Submissions Part** (Room 130):
  - a. If the parties wish to adjourn the motion for **less than sixty (60) days**, the parties may adjourn **by stipulation** without an order from the Court. The stipulation must be e-filed and filed in the Submissions Part on the return date of the motion.
  - b. If the parties wish to adjourn the motion for **more than sixty (60) days** from the original return date, then the parties must submit a stipulation of adjournment to the Court for approval.
    - i. Parties must deliver the proposed stipulation to the Court **by e-filing**.
    - ii. If approved, the "so-ordered" version of the stipulation will be e-filed, so that the parties may retrieve the signed stipulation from the electronic filing system and present it to the Submissions Part on the return date.
5. Requests to **adjourn mediation dates** in Mediation I and/or jury selection dates in Trial Part 40 should be made by contacting the appropriate part clerks. Justice Cannataro and his Part Clerk do not administer those calendars.
6. To **adjourn a hearing or trial**, the parties must contact the Part Clerk at 646-386-3816 on a **conference call with all parties** on the line. Applications for adjournments must be made **at least 48 hours** in advance of the scheduled hearing or trial.
7. All Court approved stipulations to adjourn must be e-filed by the parties.

#### **CONFERENCES AND DISCOVERY DISPUTES**

1. Only attorneys thoroughly familiar with the case may appear for a conference. The attorneys should bring signed copies of all prior decisions, orders and stipulations (both substantive and discovery-related) to the conference. The parties should bring any motions pending in the Motions Submission Part or which are *sub judice* to the attention of the Part Clerk.
2. **Counsel and litigants must follow the directions below when appearing for a preliminary, compliance, or status conference.**
  - a. Counsel for all parties must consult prior to a preliminary or compliance conference about: (i) the resolution of the case, (ii) discovery and any other issues to be discussed at the conference, and (iii) the use of alternative dispute resolution to resolve all or some of the issues of the litigation.

- b. Counsel must fill out the appropriate conference form (preliminary conference order, or compliance conference order/stipulation form) prior to appearing at the bench. Any disputes will be resolved by the Court.
    - i. On the conference form, please write legibly. Indicate the names, addresses, and telephone numbers of all counsel appearing at the conference. Number the pages (e.g., 1 of 3, 2 of 3). At the top of page 1 of the Compliance Conference Order, please indicate whether this is the 1st, 2nd, or 3rd compliance conference. Use specific cut-off dates (e.g. "on or before December 31, 2015"). Do not use open-ended dates (e.g. "within 45 days," etc.).
  - c. After filling out the appropriate form, counsel must check-in with the Part Clerk. At check-in, please hand in your conference form to the Part Clerk. The Part Clerk will then call your case when the Court is ready for your conference.
3. Conference calls are scheduled by the Court as needed. Parties wishing to schedule a conference call with the Court should do so by contacting Chambers at 646-386-5542 or 646-386-3963 to arrange a mutually convenient time and date. If the parties would like to speak by telephone with one of the law clerks, ALL parties must be on the phone before placing the call to Chambers.
  4. Unless otherwise ordered, interrogatories are limited to 25 in number, without subparts, and are limited to the following topics: names of witnesses with knowledge of information material and necessary to the subject matter of the action; computation of each category of damage alleged; and the existence, custodian, location, and general description of material and necessary documents. At the conclusion of other discovery, and at least 30 days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served.

#### **MOTION PRACTICE**

1. Substantive motions with opposition will be scheduled for oral argument for a Wednesday after submission. **All papers must be e-filed at least three (3) business days prior to the oral argument date.** Motions without opposition are generally not scheduled for oral argument.
2. Summary judgment motions must be filed **within sixty (60) days** of filing the note of issue. Counsel's affirmation in support must include the note of issue filing date.
3. Orders to show cause with requests for temporary restraining orders, including requests for a temporary stay of an action, will generally not be heard *ex parte*. See 22 NYCRR 202.7(f).
4. Any attorney seeking to withdraw from a case must file a motion by order to show cause where the granting of such application would result in the litigant being self-represented. The court will not accept a stipulation where the litigant consents to proceeding *pro se*. Where the litigant is merely substituting attorneys, a stipulation consenting to change attorneys is required and a motion need not be brought.
5. Except for discovery motions, no prior permission is required before making a motion. Discovery-related motions are strongly discouraged. Prior to making a discovery motion, parties must contact Chambers to arrange a mutually convenient time and date for a conference call. If a party has made a discovery motion, a conference will be scheduled for the same date as oral argument and will be conducted prior to counsel being heard on the motion. All discovery-related motions will be heard on Wednesdays at 2:15 p.m.
6. Requests for *pro hac vice* admission should be made by stipulation, if possible.
7. The first page of all motion papers must contain the motion sequence number in the upper right-hand corner.
8. Unless advance permission is granted by the Court, memoranda of law and affirmations/affidavits shall not exceed 25 pages. Reply affirmations shall not exceed 15 pages. All submissions must be in 12-point font, double spaced, and with one-inch margins.
9. All memoranda of law must include a Table of Contents and Table of Authorities. Citations to cases must be from the Official Reports and secondary reporters are not required.
10. Each exhibit must be e-filed under its own document number and must include a short label identifying the nature of the exhibit (e.g., Complaint, Contract dated 1/1/15, etc.).
11. Reference to deposition testimony or any other voluminous exhibit annexed to a motion must include pinpoint citations.

12. If there is a discrepancy between the relief sought in the notice of motion and the relief sought in the supporting papers, the notice of motion is controlling.
13. Similarly, requests for commissions for out-of-state depositions should be made by stipulation, if possible.
14. Applications to seal documents shall include the nature of the document, reason for the sealing request and "good cause" therefor (22 NYCRR 216.1). The Court will consider the application to seal documents only by order to show cause or notice of motion. To e-file documents under seal, please follow the procedures set forth by the County Clerk, <http://www.nycourts.gov/courts/1jd/supctmanh/EF-Protocol-30916.pdf>.

#### **ELECTRONIC FILING & E-TRACK**

1. All cases in Part 41 are required to be e-filed through the New York State Courts E-Filing (NYSCEF) system. Attorneys are expected to familiarize themselves with NYSCEF procedures at <http://iapps.courts.state.ny.us/nyscef/Login>. For more information on e-filing rules, parties may also visit: <http://www.nycourts.gov/courts/1jd/supctmanh/e-filing.shtml>, or may reach out by phone at 646-386-3610 or by email at [newyorkef@nycourts.gov](mailto:newyorkef@nycourts.gov).
2. All e-filed documents must be text-searchable. The submission of documents containing hyperlinks is strongly encouraged.<sup>3</sup>
3. "eTrack" is a case tracking service that enables parties to track active Civil Supreme Court cases and to receive notice of scheduled appearances. **All parties or their counsel must be registered for the eTrack service for all Part 41 cases.** To register or log-in please visit: <http://iapps.courts.state.ny.us/webcivil/etrackLogin>.

#### **TRIALS/EVIDENTIARY HEARINGS**

1. Prior to the start of trial, please supply the Court with the following :
  - a. Marked pleadings and bills of particulars.
  - b. All **prior decisions** in the case.
  - c. Any notices to admit, with responses.
  - d. Copies of transcripts of **depositions** intended for use at trial.
  - e. In the case of a jury trial, proposed **jury verdict sheet**.
  - f. A list of **all** requested **PJI charges** from the most current volume of the PJI. You may list the section by number and title only, if it does not call for any characterization of the evidence or the contentions of the parties. **If the section does call for a characterization of the evidence or contentions of the parties, you must supply the proposed language in writing. If you are requesting a change, the proposed language must be in writing along with appropriate citations. Please provide copies of any cases upon which you rely for charge language.**
  - g. A short (one or two lines) **summary** of your party's claims to be used by the Court in its preliminary instructions to the jury before opening statements.
  - h. Courtesy copies of **cases** and **authorities** relied upon for *in limine* or other applications.
  - i. Copies of any **statutes, codes, or rules and regulations** which are pertinent to the case.
  - j. A list of **proposed witnesses**. If a witness needs an **interpreter**, please indicate the language and any dialect.
  - k. Each attorney's business card and a number where they can be reached during trial.
2. Parties are strongly encouraged to stipulate to all facts and documents not in dispute prior to trial. Have agreed-upon documents, photographs and other exhibits pre-marked into evidence by the court reporter outside the presence of the jury.

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<sup>3</sup> See Statement of Procedures Governing Memoranda of Law and Certain Other Documents in Hyperlinked and Bookmarked Format in Electronically Filed Cases, available on page 13-15, <http://www.nycourts.gov/courts/1jd/supctmanh/EF-Protocol-8114.pdf>.

3. It is the duty of counsel, not court personnel, to make sure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.
4. Trial memoranda of law are to be submitted at least seven (7) days prior to the date of trial, unless otherwise advised by the Court.
5. All requests to set up audiovisual equipment in the courtroom shall be directed to the Part Clerk at 646-386-3816.

**HON. MARGARET A. CHAN** Part 33, City IAS (E-Filing Part), Room 103, 71 Thomas Street (Trial and Motion Courtroom), phone: (646) 386-5676; Chambers Court Attorneys: Ilana J. Marcus, Esq. and Michael N. Ament, Esq.

#### **I. Communications with the Part Clerk and Chambers**

##### A. Scheduling Matters and Requests for Adjournments:

- i. Neither the Justice nor her Court Attorneys handle adjournments.  
**Please contact the Part Clerk concerning ALL adjournments.**
- ii. Parties can request a pre-note settlement conference by calling the Part Clerk.

(1) Where all parties are agreeable to the adjournment, contact the Part Clerk and follow-up with a hard copy of stipulation for the adjournment by facsimile to the Part Clerk. Fax: 212-952-6511- Attn: Justice Margaret A. Chan.

(2) Except for emergency situations, adjournments for Wednesday motions will not be given if the application is made less than 24 hours before the scheduled appearances. **Adjournments by stipulation as to the Wednesday motions less than 24 hours will not be accepted by the court and you may be defaulted for non-appearance.**

B. No *ex parte* communications. Please do not call or e-mail the Justice or her Court Attorneys. Do not copy the Court on letters exchanged between counsel; all such communication will not be entertained. Stipulations, papers, CDs, etc. should be sent or delivered to the proper Clerk for filing, where appropriate.

#### **II. Motion Practice**

- A. Oral Argument Motions: Wednesdays in Part 33 Courtroom.
- B. All motions, except Orders to Show Cause, shall be made returnable to the Motion Support Office Submission Part Room 130, 60 Centre Street.
- C. Parties seeking a Temporary Restraining Order by Order to Show Cause must appear with the affected adversary, or proof of notification to adversary, when the application is made.
- D. The Court generally does **NOT** require courtesy/working copies of **e-filed** papers. The part will contact you directly if courtesy/working copies are required.
- E. Motions submitted on default in Room 130 are generally not scheduled for oral argument.
- F. Non-Discovery motions with opposition will automatically be scheduled for oral argument in the Trial and Motion Courtroom for a Wednesday after the final appearance in the Submission Part, Room 130 at 60 Centre Street.
- G. General Motion Guidelines:
  - i. The first page of all motion papers, including notice of motion, opposition, reply, exhibits, affirmations, memorandum of law, etc., must reflect the respective motion sequence number on the first page in the upper right hand corner.
  - ii. All submissions must be in 12 point font and in double-spaced line format.
  - iii. All courtesy copies of motion papers must have **protruding** exhibit tabs identifying the exhibits.
  - iv. All Exhibits electronically submitted shall be described in the heading of the attached exhibit (e.g. Exhibit A, Bill of Particulars; Exhibit B, 50-H Transcript), so that it is known what document is filed in the Exhibit without the need to electronically open it.
  - v. Any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions". While the entire transcript must be provided, the failure to follow this rule may result in the denial of the motion with leave to bring it again upon proper papers, but only so long as any deadlines have not already passed - that is, your time will not be extended.
  - vi. As with deposition transcripts, any reference to any other voluminous exhibit annexed to a motion must include pinpoint citations so that the exact location within the exhibit can be easily located. For example, a citation to physical therapy

notes contained within an exhibit of medical records should be identified as “see physical therapy note dated xx/xx/xx, exhibit B, page 9”; it should not just refer the court to the exhibit as a whole.

- H. If a case has **settled** while a motion is pending (or at anytime), or if you wish to withdraw the motion (*after submission in room 130 and before oral argument*), please advise the Part Clerk in writing **immediately, with notice to all sides**.
- I. All decisions are scanned and available on the internet; access them through E-LAW or SCROLL ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) - click on “Case Information” on the right side of the page). Please do not call Chambers or the Part Clerk to ask whether a decision has been issued.
- J. Once motions are fully submitted, the court will not allow further submissions. Letters to the court after oral argument or full submission regarding a pending motion that was fully submitted will be not be accepted.

**HON. DAVID B. COHEN**, Part 58, IAS General Assignment Part, 111 Centre Street, Room 574 New York, NY 10013

**Part Clerk:** Regina Sgro (646)-386-3347

**Chambers:** 111 Centre Street, Room 457

**Court Attorney:** Saul Stein, Esq.

**Part 58 is an E-Filing Part – The court strongly encourages all cases to be converted to e-filing. The link to the form to convert a case to e-filing is <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/stipulation.and.consent.pdf>**

### **1. ADJOURNMENTS AND OTHER COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS**

- A. All requests to adjourn conferences and oral arguments require prior court approval and must be directed to the Part Clerk. Requests to adjourn motions must be made by the Monday before the date set for conference or argument. Then a written stipulation to be “So Ordered” by the Court, explaining the reason for the adjournment, must be e-filed (on non-e-file cases, the stipulation must be hand delivered to the Part) at least one day before the scheduled conference or argument.
- B. If the parties do not agree on an adjournment, they must set up a conference call with chambers or appear and make an application before the court.
- C. Do not call chambers regarding other scheduling matters and uncontested requests for adjournments. Any such calls will result in your being directed to the Part Clerk.
- D. Do not copy the court on letters or documents exchanged between counsel. The court will not read them and they will be discarded unread by the Part Clerk without being shown to the court.
- E. *Ex parte* communications are strictly prohibited.

### **2. MOTION PRACTICE**

- A. Oral Arguments on Motions are held on Wednesdays at 9:30 a.m., or as otherwise directed.
- B. Failure to appear for oral argument within 30 minutes of the directed time may result in a default.
- C. All summary judgment motions must be filed within 120 days after the filing of the note of issue.
- D. Part 58 requires working copies of all motion papers. Working copies shall be provided within 72 hours upon e-filing or submission of the motion in Room 130 as applicable. Motions may be scheduled for oral argument at the Judge’s discretion. If oral argument is scheduled, you will be notified electronically.
- E. For adjournments, see Rule 1.
- F. Parties appearing on dispositive motions should have settlement authority. A failure to appear with settlement authority may be deemed a default.
- G. If a motion has been withdrawn or settled, whether or not *sub judice*, the parties must immediately call the Part Clerk and e-file a stipulation.
- H. If a motion has been made on your case and you are before the court on a conference, all attorneys must be prepared to discuss the pending motion. Failure to be prepared to discuss the motion may be deemed a default on the motion.

### **3. PRELIMINARY AND COMPLIANCE CONFERENCES**

- A. Preliminary Conferences, Compliance Conferences and Status Conferences are all held on Wednesdays at 9:30 a.m., or as otherwise directed.
- B. For Adjournments, see Rule 1.
- C. Failure to appear by 11:00 am at any scheduled conference will be considered a default and your pleadings may be stricken.
- D. There will be no calendar call. Stipulations and Orders should be filled out and given to the Part Clerk when all parties are ready to proceed. The parties will then conference with the judge or a court attorney. If the opposing party fails to appear by 11:00 a.m., please notify the Part Clerk.
- E. Bring to the attention of the Part Clerk all pending motions, whether pending in the Motion Submission Part or fully submitted.
- F. Attorneys attending conferences must have authority to bind the party on all issues. Appearances by counsel without authority may be deemed a default.
- G. All orders must be legible, contain the Part number, judge’s name and must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.

**5. TRIALS**

- A. On the first appearance for trial, all parties must furnish: all marked pleadings and bills of particulars, all notices to admit, all relevant decisions, all motions *in limine*, requests to charge (subject to revision) and a proposed verdict sheet, and shall advise the court of all required interpreters.
- B. Post-trial motions shall be made within 15 days after verdict (CPLR 4405).

**HON. MATTHEW F. COOPER** Part 51, Matrimonial Part, Room 212, 60 Centre Street, Phone 646-386-3846

**Chambers:** 646-386-5696  
**Associate Law Clerk:** Timothy Corbo, Esq. tcorbo@nycourts.gov  
**Assistant Law Clerk:** Leah E.S. Cobean, Esq. lecobean@nycourts.gov  
**Part Clerk:** Charlotte Williams [chwillia@nycourts.gov](mailto:chwillia@nycourts.gov)

**GENERAL PART RULES**

- 1. All parties and attorneys are required to be present on the return date and on every subsequent adjourn date unless otherwise authorized by the court.
- 2. All adjournments require the prior approval of the court and must be requested no later than 1:00 P.M. of the business day immediately preceding the return date. **Adjournment requests received after 1:00 P.M. will be denied barring extraordinary circumstances.**
- 3. Any adjournment granted by the court must be memorialized by written stipulation prepared by counsel for the party requesting the adjournment and must be signed by the attorneys for all parties. The stipulation must include a briefing schedule for the submission of any outstanding responsive papers.
- 4. Motion papers, responsive papers, and any other correspondence shall **NOT** be faxed or e-mailed to the court without the court's express permission. If prior permission to fax or e-mail documents is obtained, **DO NOT** send hard copy duplicates by mail or hand delivery unless otherwise advised.
- 5. In the event that an answer is not interposed in an action and the parties have appeared before the court for a preliminary conference, the action may not be discontinued without prior court approval and after a motion for such relief is brought.

**MOTIONS AND CONFERENCES**

- 6. Wednesdays (at 9:15 A.M.) are the Part's designated motion and conference days.
- 7. All motions are required to be brought by Order to Show Cause, unless authorization to proceed by Notice of Motion is obtained from the court prior to filing.
- 8. Oral argument is required on all motions and orders to show cause unless otherwise directed by the court. If a hearing is requested or required, the parties shall be prepared to go forward on the return date of the application.
- 9. Opposition papers must be served and filed with the Part 51 court clerk at least seven (7) days prior to the return date or, where an adjournment has been granted, at least seven (7) days prior to the adjourn date, unless otherwise directed by the court. The Reply, if any, must be served and filed with the Part 51 court clerk at least one (1) day prior to the return date or, where an adjournment has been granted, at least one (1) day prior to the adjourn date, unless otherwise directed by the court. The court does not accept or require courtesy copies unless expressly requested.
- 10. Any cross-motion must be served and filed in the same time frame for responsive papers described above except that the original cross-motion must first be presented to the NY County Clerk for payment of the appropriate fee. After payment of the fee, the original cross-motion with proof of payment must be filed with the Part 51 court clerk.
- 11. All motion papers including orders to show cause, notice of motion/cross-motion, opposition, reply, memos of law, exhibits, affirmation, affidavits, and proposed/settle orders must indicate the respective **MOTION SEQUENCE NUMBER** on the first page in the upper right hand corner. **Failure to do so may result in rejection of the papers.**
- 12. All attorneys and *pro se* litigants must provide their contact information (including your e-mail address and fax number) to Room 119 at 60 Centre Street, New York, NY 10007.
- 13. At the preliminary conference, the parties are required to provide to the court copies of Statements of Net Worth and the pleadings. A preliminary conference shall take place on the return date for all motions seeking *pendente lite* relief in a newly filed divorce action, unless otherwise directed by the court.

14. All discovery deadlines set by the court are final and may only be extended by court order for good cause shown. The court will consider granting an extension of a discovery deadline only if an application is made by order to show cause prior to its expiration.
15. At the pre-trial conference for a custody trial, the parties shall exchange and submit to the court Proposed Parenting Plans and witness lists. At the pre-trial conference for a financial trial, the parties shall exchange and submit to the court Statements of Proposed Disposition, updated Statements of Net Worth, witness lists, and tax returns for the previous three years. Proposed Parenting Plans and Statements of Proposed Disposition shall be submitted in hard copy and e-mailed to the law clerks listed above as a Microsoft Word compatible document. Absent extraordinary circumstances, all trial dates are final and will not be adjourned.
16. For all emergency applications, the movant must contact the court to ascertain a convenient date/time to have the application heard and the order presented for signature. If represented by counsel, **THE CLIENT MUST APPEAR** on the application or the emergent relief requested may be denied.

#### **CHANGE OF ATTORNEY**

17. Any attorney seeking to withdraw from a case **MUST FILE A MOTION** by order to show cause where the granting of such application would result in the litigant being self-represented. **The court will not accept a stipulation where the litigant consents to proceeding pro se.** Where the litigant is merely switching attorneys, a stipulation consenting to change attorneys is required and a motion need not be brought.

<b>HON. JAMES E. d'AUGUSTE</b>	Part 55 (E-file part)
Law Clerks:	Jeffrey S. Zellan, Esq. Christopher McEneny Chan, Esq.
Courtroom:	111 Centre Street, Room 684
Telephone:	646-386-3289
Part 55 Clerk:	Kurby Wang

1. Courtesy copies of e-filed cases are to be provided on the date oral argument is scheduled. Otherwise, they are not required.
2. For adjournments or other calendar issues, please call 646-386-3289. If a stipulation of adjournment or withdrawal of a motion, or correspondence to the Court is e-filed, please notify the Part Clerk or send a hard copy to chambers.
3. When a motion is granted and the movant is directed to settle order or judgment on notice, settlement takes place with the Orders Section, Room 119A at 60 Centre Street. Therefore, the movant shall file (1) notice of settlement; (2) proposed order or judgment; and (3) affidavit(s) of service with the Orders Section.
  1. If it is an e-filed case, the movant shall file working copies of the same with the Orders Section. For further information, please contact the Orders Section at 646-386-3032.
  2. Do not submit proposed orders or judgments to chambers or the courtroom, unless specifically directed to do so.
  3. *References:*
    1. "The Settlement of Long Form Orders" Section on the court's website available at: [http://nycourts.gov/courts/1jd/suptctmanh/motions\\_on\\_notice.shtml](http://nycourts.gov/courts/1jd/suptctmanh/motions_on_notice.shtml).
    2. Uniform Rules for Trial Courts, 22 NYCRR § 202.48.
4. Motions for summary judgment shall be made no later than 120 days after the filing of the note of issue, except with leave of the Court for good cause shown pursuant to CPLR 3212(a). This rule shall supercede any case scheduling order.

**HON. TANDRA L. DAWSON** Part IDV, Integrated Domestic Violence Part, Room 1604, 100 Centre St., Court Attorney: Lydia S. Antoncic ([lantonci@nycourts.gov](mailto:lantonci@nycourts.gov))  
 Supervising Clerk: Dean Hutchins  
 Clerk tel. (646) 386-3868/3579/3571  
 Fax (212) 884-8938

#### **ADJOURNMENTS**

1. No adjournments will be granted without prior court approval.
2. No adjournments will be granted via telephone except upon a showing upon of exigent circumstances.

3. Requests for adjournments **on consent** must be made by a written stipulation, faxed to the court, at least 2 days prior to the scheduled court date and have the consent of all counsel and self-represented litigants when applicable. The stipulation shall be signed by all counsel and self-represented litigants, indicate the reason for the request, and provide no less than 4 dates/times for the proposed adjourn date.
4. Requests for adjournments **not on consent** must be made in writing, via fax, with notice to all counsel and self-represented litigants, when applicable. The requesting party must indicate the reason for the request and provide no less than 4 dates/times for the proposed adjourn date.
5. Adjournments on the ground of engagement of counsel shall be granted only in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. The parties must appear unless the party's appearance has been excused by the court.

#### **MOTIONS**

1. All motions shall be governed by the Uniform Civil Rules for the Supreme Court (22NYCRR §202.16), the Uniform Rules for the Family Court (22NYCRR §205.11), Civil Practice Law and Rules (CPLR § 2214, 2215), and the Criminal Procedure Law.
2. All motions for relief on matrimonial cases shall be filed via Order to Show Cause.
3. All motion/cross-motion papers and responsive papers shall indicate the respective motion sequence number on the first page in the upper right hand corner.
4. On all motions related to financial relief and/or counsel fees in a matrimonial proceeding, counsel/parties shall annex a completed statement of net worth as the first exhibit to the motion papers.

#### **E-FILING**

E-filing in matrimonial cases is now permitted on consent of both parties. However, e-filing will not be accepted in matters where one or both parties are self-represented. If a litigant becomes self-represented in an e-file matter, the matter will be removed from the e-filing system. Counsel is directed to submit a courtesy copy of any e-filed documents that require Judge Dawson's signature, as well as proposed Orders to Show Cause (with exhibits) to Chambers.

#### **PAGE LIMITATIONS**

Unless prior approval is received from the court, Affirmations and Affidavits shall be limited to fifteen (15) pages, Memorandums of Law to ten (10) pages and post-trial summations shall be limited to twenty (20) pages. These page limits presume double-spacing and 12 point font. Any submission that exceeds these requirements without prior court approval will be disregarded.

#### **ORDERS/STIPULATIONS**

1. All submissions of proposed orders for signature made between adjourn dates, must be on notice to all counsel and self-represented litigants, if applicable.
2. Any stipulation submitted to the court will be "so ordered" only if the parties are present in court to be allocuted. However a represented party's appearance may be waived, if the stipulation contains said waiver with the appropriate language or such waiver was stated orally on the record.

#### **CONFERENCES**

1. In matrimonial cases, preliminary conferences must be held within forty-five (45) days of the filing of the Request for Judicial Intervention. The RJI must be filed in Supreme Court at 60 Centre Street.
2. When an OSC in a matrimonial case is filed prior to the scheduling of a preliminary conference, the court will hold the preliminary conference on the return date of the OSC. Accordingly, counsel is required to appear with their clients on the adjourn date of the OSC.
3. Requests for conference calls with the court in matrimonial cases shall be made by fax, with notice to all counsel, and indicate the reason for the request and available times for the call. The court will not schedule a conference call with a self-represented litigant. <mailto:Lcapitti@courts.state.ny.us>

#### **TRIALS**

1. Thirty (30) days prior to the date of a family/matrimonial trial, all parties must furnish to the court and opposing counsel a list of all witnesses intended to be called by counsel with a brief description of that witnesses' role/function in the trial.
2. Unless otherwise directed by the court, a written summation is required in all family/matrimonial cases which will include a memorandum of law and a proposed parenting plan, if applicable, and/or statutes, cases, opinions and other relevant materials to be relied upon to support a party's claims, defenses and arguments.

**HON. LAURA DRAGER** Part 31, Matrimonial IAS Part, Room 305, 71 Thomas Street, Phone: 646-386-3355  
**Motions & Conferences:** Mon. all day and Tues. mornings

**HON. CAROL EDMEAD** Part 35, IAS General Assignment Part, Room 438, Phone: 646-386-3322

**Motions:** Tues. 9:30 A.M. and 11:30 A.M. on a staggered schedule

Part 35 is a PAPERLESS PART. E-filed motions do not require hard or courtesy copies, unless requested by the Court.

The dispositive motion deadline is 60 days after the note of issue is filed, unless otherwise directed.

Discovery motions are strongly discouraged. (See also Rules of the Justices, New York County Supreme Court, Civil Branch (Non-Commercial Division).

Motions returnable in the Motion Submission Part Courtroom, Room 130 and assigned to the Part will be on submission unless the court advises the parties that oral argument is required.

Orders to show cause will be returnable in the Part. Responsive papers to orders to show cause must be delivered to the courtroom at least 4 days prior to the return date unless the court indicates otherwise. Absent an emergency, orders to show cause may not be adjourned. If the motion is adjourned, all papers are due in the Part on the Friday before the adjourned date.

In the event a motion has been resolved by withdrawal or settlement of the case, counsel are encouraged to advise the court prior to the Tuesday calendar by promptly faxing to the court a letter of withdrawal or a stipulation of settlement and discontinuance. There shall be no *ex parte* communications with chambers and there will be no telephone adjournments.

Conferences: Requests to adjourn preliminary, compliance, or pre-trial conferences on consent of all parties shall be faxed to (212) 374-8355.

All preliminary conferences are scheduled for Tuesdays at 2:15 P.M.

Preliminary conferences may not be adjourned. All stipulations of adjournment are subject to court approval and must be on consent, in writing. If there is no consent, the date must be honored and counsel must appear for an oral application for an adjournment. When an order to show cause is filed prior to the scheduling of a preliminary conference, the court will hold the preliminary conference on the return date of the Order to Show Cause, except where an Order involves (1) a reference; (2) a stay of the proceedings, i.e. bankruptcy or (3) the death of a party or other substitutions.

At a compliance conference, a scheduled conference may be adjourned one time for no more than two weeks by stipulation of the parties faxed to the court by noon on the preceding Friday. Any further adjournments require the approval of the court, which will be granted only for good cause. The request for any such additional adjournment must be submitted to the court by fax no later than 4 P.M. on the preceding Friday. No adjournments will be given over the telephone.

At a pre-trial conference, counsel and their clients must appear unless the court expressly directs otherwise.

Questions regarding appearances in Part 35 on a conference or motion are to be forwarded to the Part Clerk at 646-386-3322.

Trials: Trials are scheduled for a date certain generally within 45 days after a conference is held following the filing of a note of issue. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency. Trials are held every day of the week except Tuesdays, which is a calendar day. No adjournments will be granted if a witness is unavailable to testify unless the court concludes, in rare instances, that good cause exists. (See also Pre-Trial Information Sheet available in the Part).

**HON. ARTHUR F. ENGORON** Part 37, Trial Part: IAS General Assignment Part, Room 418, 60 Centre, Phone: 646-386-3222; Chambers, Room 566, 60 Centre, Phone: 646-386-3181

Principal Law Clerk: Allison R. Greenfield [argreenf@nycourts.gov](mailto:argreenf@nycourts.gov) Assistant Law Clerk: Jessica M. Goldberg [jmgoldbe@nycourts.gov](mailto:jmgoldbe@nycourts.gov) Part Clerk: Margie Ramos-Ciancio [mciancio@nycourts.gov](mailto:mciancio@nycourts.gov)

Chambers: (646) 386-3181

\*Effective January 14, 2019

#### **EX PARTE COMMUNICATIONS PROHIBITED**

Ex parte communications with the Court are strictly prohibited. All parties must be on the telephone before calling chambers to discuss a matter before the Court. Additionally, any email or letter correspondence to the Court must copy all parties.

#### **CONFERENCES**

All conferences are scheduled for Tuesday mornings at 10:00 a.m., unless otherwise indicated.

#### **MOTIONS**

All motions, except those brought by Orders to Show Cause, shall be made returnable in the Motion Submission Part, 60 Centre Street, Room 130. After the motion is fully submitted, the Court may schedule oral argument, generally on a Tuesday in Room 418, 60 Centre Street. Parties will be notified electronically of the date and time. Parties must be on time, as defaults will be taken. If the Court does not schedule oral argument, it will decide the motion on submission.

Applications for Orders to Show Cause must be brought to the Ex Parte Office in Room 315 to be processed and then brought to Room 418 for judicial review.

#### **ADJOURNMENTS**

There shall be no adjournments without the Court's consent, which the Court will only grant for good cause. Requests for adjournments should be made via email to either the Principal Law Clerk or the Assistant Law Clerk (emails notated *supra*).

#### **SUMMARY JUDGMENT MOTIONS**

All summary judgment motions must be made within 90 days of the filing of the note of issue. See CPLR 3212(a).

#### **SETTLEMENT CONFERENCES**

Part 37 strongly encourages settlements and is available to preside over conferences. Parties interested in availing the Court's assistance in this regard may email chambers to seek to schedule a settlement conference.

#### **PAPERLESS PART**

Part 37 is a paperless part and the Court does not require courtesy copies; however, the Court may request them via email in particular instances.

**HON. LYLE E. FRANK**, City Part, Part 52, E-File Part, 80 Centre Street, Room 289, New York, NY 10013 Telephone: 646-386-3742 Facsimile: 212-952-2810 Court Attorney: Diana D. Cruz, Esq. dcruz2@nycourts.gov Chambers Telephone: 646-386-3112 Part 52 Clerk: Wendell Vaughan Courtroom

1. **Conferences:** All conferences in matters involving the City of New York where the City is represented by Corporation Counsel (DCM cases) are held at 80 Centre Street, Room 103, New York, NY 10013. For adjournments or other calendar issues involving appearances in DCM, please call 646-386-3683. Stipulations to adjourn the conferences must include a reason for the adjournment, and may be sent to the DCM clerk by facsimile to 212-952-2779 or by email to jtmetzger@nycourts.gov.
2. **In-camera review of documents:** No compliance conference stipulation or order shall direct any party to submit records or other evidence to the Court for an in-camera review without first conferencing the matter with Judge Frank's court attorney, Diana Cruz.
3. **Summary Judgment motions:** All summary judgment motions must be made **no later than 60 days** after filing the Note of Issue.
4. **Oral Arguments:** Oral arguments on motions will be held on Wednesday, commencing at 10:00 a.m.. However, not all motions will be scheduled for oral argument. If the Court has not scheduled a motion for oral argument and a party wishes to request oral argument, a letter must be submitted to the Part 52 clerk as well as to all parties on the matter. If upon a review of the request, the Court determines that oral argument is warranted, the parties will be so notified. Motions submitted on default or with no opposition are generally not scheduled for oral argument.
5. Motions scheduled for oral argument may be adjourned up to 2 times from the original argument date, upon consent of all sides without leave of court. Parties that seek additional adjournments must seek leave of court.
6. Do NOT send courtesy copies of any motion papers, affirmations or related documents directly to the part or chambers, unless directed to do so.
7. **EX PARTE COMMUNICATIONS ARE STRICTLY PROHIBITED.** Please do not call or e-mail Justice Frank or his staff unless all parties participate in the communication.

**HON. KATHRYN E. FREED** IAS Part 2 (E-Filing Part), Trial and Motion Courtroom 280, 80 Centre Street  
Principal Law Clerk: Jonathan A. Judd, Esq.  
Assistant Law Clerk: Dylan Cerbini, Esq.  
Part 2 Clerk: Sonia Walker  
Courtroom Phone: (646) 386-3852

Effective April 1, 2018

#### **I. Communications with Part Clerk and Chambers**

##### **A. Scheduling Matters and Requests for Adjournments:**

- i. Neither Justice Freed nor her Law Clerks handle adjournments. Please contact the Part 2 Clerk concerning all adjournments.
- ii. Parties wishing to schedule an in-court or telephone conference must do so by conference call, with all appearing parties, to the Part 2 Clerk, unless one of the issues complained of is the availability or responsiveness of an adversary, in which case the request for a conference may be made ex parte.
- iii. Adjournment requests for Tuesday morning oral argument must be directed to the Part 2 Clerk.

(1) Where all parties are amenable to adjourning oral argument, contact the Part 2 Clerk and follow-up with a hard copy of the stipulation of adjournment by facsimile to the Clerk. Fax: (212) 952-2810- Attn: Justice Kathryn E. Freed. The stipulation can also be emailed to the Part Clerk. The stipulation **must also be e-filed. All parties must be copied on any correspondence to the court.**

(2) Except in emergency situations, motion adjournments for Tuesday morning motions will not be granted if the application is made less than 24 hours before the scheduled appearances. **Adjournments by stipulation submitted less than 24 hours prior to the scheduled motion must be approved by the court and parties not in compliance may be defaulted for nonappearance.**

(3) Adjournment requests for motions returnable in the Motions Submissions Part (Room 130), for mediation dates in the Mediation Part, and/or for jury selection dates in Trial Part 40 must be made by contacting the appropriate Part Clerks. Justice Freed's staff cannot adjourn any appearances scheduled in those Parts.

(4) A preliminary conference or compliance conference may be adjourned **once on consent for no more than 30 days** to a Tuesday afternoon at 2:15 p.m. A stipulation agreeing to the adjournment **must be e-filed** and a copy of the stipulation must be filed with the Part 2 Clerk at least 24 hours in advance of the conference date. Any **adjournment by stipulation submitted less than 24 hours prior to the scheduled motion must be approved by the court and parties not in compliance may be defaulted for nonappearance**. Further adjournments require Court leave.

**B. No ex parte communications. Please do not call or e-mail Justice Freed or her staff unless all parties participate in the communication.** Do not copy the Court on letters exchanged between counsel; all such communications will not be entertained. Stipulations, papers, CD-Roms, etc. should be sent or delivered to the proper Clerk for filing, where appropriate.

## **II. Motion Practice and Conferences**

A. Oral argument of **non-discovery motions**: Tuesdays at 10:00 a.m. in Part 2 Courtroom, 80 Centre Street, Room 280.

**Preliminary and Compliance Conferences and Discovery Motions**: Tuesdays at 2:15 p.m. in Part 2 Courtroom, 80 Centre Street, Room 280.

B. All motions, except Orders to Show Cause, shall be made returnable to the Motion Submission Part Courtroom, 60 Centre Street, Room 130. Motions will be scheduled for oral argument in the Trial and Motion Courtroom, 80 Centre Street, Room 280, for a Tuesday at 10 a.m. after the final appearance in the Submission Part. The Court will notify the parties of the oral argument date once one is assigned. Motions submitted without opposition in Room 130 may be scheduled for oral argument.

C. Parties seeking a Temporary Restraining Order by Order to Show Cause must appear with the affected adversary, or proof of notification to adversary, when such application is made.

D. The deadline for filing motions for summary judgment is **60 days** from the date of the filing of the note of issue, as set forth in the preliminary conference order, unless otherwise ordered by the court.

E. General Motion Guidelines:

i. The first page of all motion papers, including notice of motion, opposition, reply, exhibits, affirmations, memorandum of law, etc., must reflect the respective motion sequence number and index number in the upper right hand corner.

ii. All submissions must be in 12 point font and in double-spaced line format.

iii. Documents in a foreign language must be properly translated as per CPLR 2101(b).

iv. If reliance is placed on a decision or other authority not officially published or readily obtainable by the court, a copy of the case or pertinent portions of the authority shall be submitted with the motion papers.

v. Unless advance permission is otherwise granted by the court for good cause, **memoranda of law shall not exceed 30 pages each** (exclusive of table of contents and authorities) **and affidavits/affirmations shall not exceed 25 pages each**. Reply affirmations shall not exceed **15 pages in length**.

vi. The CPLR does not permit sur-reply papers, however denominated. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Submission Part (Room 130), or after argument in Part 2, if any, except with the advance permission of the court. **Materials submitted in violation of this rule will be disregarded by the court.**

vii. Each document or exhibit submitted electronically shall be separately filed and described in the "Additional Document Information" section when uploaded to NYSCEF (e.g., Exhibit A, Bill of Particulars; Exhibit B, 50-h Transcript), so that it is known what document is without the need to open it. Failure to comply with this provision may result in rejection of the filing.

viii. Any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions". The failure to follow this rule may result in the denial of the motion with leave to bring it again upon proper papers, but only so long as any deadlines have not already passed - that is a filing deadline will not be extended. As with deposition transcripts, any reference to any other voluminous exhibit annexed to a motion must include pinpoint citations so that the exact location within the exhibit can be easily located. For example, a citation to physical therapy notes contained within an exhibit of medical records should be identified as "see physical therapy note dated xx/xx/xx, Exhibit B, at page 9"; it should not just refer the court to the exhibit as a whole.

ix. Memoranda of law must be bound separately from other papers. Exhibits should be bound in volumes not to exceed approximately 1 to 1.5 inches in thickness, if practicable. Velo binding is preferred. Two-sided copies of depositions or other papers must be bound on the left.

F. **If a case has settled** while a motion is pending (or at anytime), or if you wish to withdraw the motion (after submission in room 130 and before oral argument), **please advise the Part 2 Clerk in writing immediately.**

G. All decisions are scanned and available on the internet; access them through E-LAW or SCROLL ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) - click on "Case Information" on the right side of the page). **Please do not call Chambers or the Part 2 Clerk to ask whether a decision has been issued or when a decision is expected to be issued.**

H. Once motions are fully submitted, the court will not accept any additional papers. Letters to the court after oral argument or full submission of a pending motion will not be accepted.

I. The parties may not file a motion relating to discovery without court leave. Prior to filing a discovery motion, and after good faith efforts to resolve the discovery issue(s), the parties are required to confer with the court regarding the issue(s) to be raised by the motion. If, after the parties confer with the court, it is necessary for a discovery motion to be made, the movant must set forth in its affirmation of good faith not only the efforts it made to resolve the disputed issue(s), but also precisely when and by whom it was granted leave to file the motion.

### III. Trial Practice

A. **Trial Memoranda.** Prior to trial, each party is to submit a trial memorandum, **not to exceed five (5) pages**, briefly setting forth its position and the relevant factual and legal issues to be tried. Relevant case law should be cited in, and relevant cases should be attached to, the memorandum.

B. **Marked Pleadings.** The parties are to submit marked copies of all pleadings in the case prior to the commencement of trial.

C. As soon as possible prior to trial, the parties are to provide the court with **all relevant orders** documenting the history of the case to be tried including, but not limited to, decisions granting or denying summary judgment or dismissal motions and orders of preclusion.

D. **Motions in limine** must be provided to the court as soon as possible prior to trial.

E. Where practicable, deposition transcripts and exhibits shall be provided electronically in a word-searchable format, and a working copy thereof shall also be filed with the Part 2 Clerk.

### IV. Appearances By Counsel

In connection with motions, conferences, or trials, counsel are expected to appear **on time**. 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 appointed time for the appearance may be subject to sanctions including, but not limited to, default and/or striking of pleadings. To avoid sanctions, an attorney with an appearance(s) in another part should advise his or her adversary(ies) and the Part 2 Clerk that he or she will be leaving the courtroom.

### V. Other Submissions

The court must be provided with copies of any documents which require so-ordering or signing including, inter alia, proposed orders and judgments, transcripts, and stipulations. If these documents are efiled, the parties must promptly notify the court of such filing.

Any documents filed with, or provided to, the court must be marked to reflect that they have previously been exchanged with all parties to the action.

Each preliminary conference order must have annexed thereto this court's "Preliminary Conference Additional Directives" and each compliance conference order must have annexed thereto this court's "Compliance Conference Additional Directives." These directives can be found in the Part 2 courtroom on the date of the conference.

Requests for commissions and for pro hac vice admissions should be made by stipulation, if possible, or by motion if necessary. If by motion, please annex a proposed order.

**HON. PAUL A. GOETZ** IAS Part 47 80 Centre Street, Room 320  
Part Clerk: Jeffrey S. Wilson Phone: 646-386-3743  
Court Attorney: Vera Zolotaryova Phone: 646-386-4382  
Fax: 212-618-0528

**Oral Argument on Motions** - Thursdays at 2:15 p.m.

**Conferences** - Thursdays at 9:30 a.m.

- **Communications with the Court.**

A. For all scheduling matters and requests for adjournments, please call the Part Clerk for instructions. Please do not call Chambers regarding scheduling matters.

B. All requests for adjournments must be approved in advance. Without prior approval, a stipulation will not be accepted and any failure to appear will be considered a default. To make your request for an adjournment, please call the Part Clerk **at least two days** prior to the scheduled appearance with all counsel on the line. Alternatively, a request may be made by submitting a stipulation two days prior to the scheduled appearance providing the reason for the request. If approved, you will receive a new date from the Court.

C. For motions pending in the Motion Submissions Part (Room 130 at 60 Centre Street), follow that Part's rules regarding adjournments and scheduling.

D. If a motion has been withdrawn or the case has been settled or otherwise discontinued, please notify the Part Clerk immediately and e-file a stipulation.

E. To determine whether a decision has been rendered, please check NYSCEF or the Supreme Court Records On-Line Library (SCROLL). All decisions and orders are scanned and available online. Please do not call the Court to ask whether a decision has been issued.

F. Please do not call or email Chambers unless specifically instructed to do so. If instructed to call Chambers about a pending matter, the call may be placed only with all parties on the line. There shall be no ex parte communications.

G. Please do not write letters or emails to the Court unless you: seek to withdraw a motion in whole or in part; wish to advise the court that a case has settled; or were granted leave to do so at oral argument or by the Court.

## **II. Motion Practice**

A. Attorneys appearing before Justice Goetz must be thoroughly familiar with the case. All Counsel must be prepared for settlement discussions and to have their client or adjuster available by telephone.

B. If oral argument is desired, the request must appear in the notice of motion. However, motions will only be scheduled for oral argument at the Justice's discretion. If oral argument is scheduled, you will be notified electronically of the date.

C. Motions submitted on default are generally not scheduled for oral argument. However, the movant must make certain that an affidavit of service is included, even for e-filed motions. Without a proper affidavit of service, relief will be denied.

D. The movant shall specify in the notice of motion, order to show cause, and in a concluding section of a memorandum of law the exact relief sought. If there is a discrepancy between the relief sought in your notice of motion and the relief sought in your supporting papers, the notice of motion is controlling.

E. Orders to Show Cause. Motions shall be brought on by order to show cause only when there is genuine urgency. Reply papers shall not be submitted on orders to show cause.

F. Temporary Injunctive Relief. As per Rule 202.7(f) of the Uniform Rules, any application for temporary injunctive relief, including a temporary restraining order, shall be made on at least 24-hours notice to the adversary, absent a showing of significant prejudice.

G. Discovery motions are strongly discouraged. If a discovery dispute arises, it may be directed to the Part Clerk who will schedule a conference. **Do not call or send letters to Chambers regarding discovery disputes.**

H. Summary Judgment Motions.

1. **All summary judgment motions must be made no later than 60 days after filing the Note of Issue -**

there are no exceptions without leave of Court. In the notice of motion or early in the affirmation in support, please state the date the Note of Issue was filed and that the motion is timely. Absent good cause for late filing, a late motion will be denied, even if your adversary does not object.

(2) Discovery must continue during the pendency of a summary judgment motion, unless good cause is shown for a stay. A stipulation will not suffice; any stay must be so-ordered.

#### I. Motion Papers

(1) E-Filed papers: The Court requires working copies of all e-filed papers. Please submit working papers in Room 130 on the return date of the motion and they will be delivered to the Court with the motion. Do not submit working copies directly to the Court unless instructed to do so. Working copies of motion papers must be bound. **Failure to submit a complete and bound working copy of motion papers may result in an adjournment of the motion or denial of the relief sought.**

(2) Page limits. Memoranda of law shall not exceed 30 pages each (exclusive of table of contents and tables of authorities) for the moving and opposition briefs and reply briefs shall not exceed 20 pages each. No sur-replies will be accepted.

(3) Motion Sequence Number: Often several motions are submitted at the same time. To keep papers organized, the first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper right corner.

(4) Multiple Parties: If the case has multiple plaintiffs or defendants, then you must state which party you represent in your motion papers. Do not state that you represent "defendants" unless you represent all defendants.

(5) Exhibits

(a) Tabs: All exhibits must be identified by protruding tabs.

(b) Referring to exhibits: Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations so the exact location within the exhibit can be found easily. For example, a citation to physical therapy notes contained within an exhibit of medical records should be identified as "physical therapy note dated xx/xx/xx, Exhibit B, page 9"; it should not just refer to "Exhibit B". Likewise, while entire EBT transcripts and other voluminous exhibits must be e-filed, only relevant portions need be annexed to working copies and any reference thereto must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions."

### III. Conferences

A. Counsel attending the conferences are expected to be familiar with the case and have authority to discuss and stipulate to resolve all disclosure issues. Appearances by counsel without authority may be deemed a default.

B. There is no calendar call. When all parties are present, please fill out a stipulation or preliminary conference order with dates for completing discovery. Cases will be called in the order the completed stipulations are submitted. If a party is appearing *pro se*, please notify the Part Clerk before the case is called.

C. Do not leave the courtroom until the Court has reviewed your completed forms.

D. At each compliance conference, counsel must bring a list of all outstanding discovery as well as prior conference orders and stipulations. Failure to address all outstanding discovery existing at the time of the compliance conference may be deemed a waiver of the right to obtain said discovery.

E. This Part requires compliance with court-ordered deadlines set forth in the preliminary/compliance conference order(s). Failure to adhere to deadlines or comply with orders may result in serious penalties.

F. Notes of Issue: If all parties agree before the final compliance conference that disclosure is complete, the final conference may be avoided by e-filing or faxing a stipulation to the Part Clerk at least two days before the scheduled conference. The stipulation must certify that all disclosure is complete and provide for the filing of a note of issue.

#### G. Conference Orders

- (1) All orders will be scanned and will appear on NYSCEF typically on the same day as the conference.
- (2) Please write legibly with a black ball point pen. Press hard. Illegible orders will not be signed.
- (3) You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference and the party they represent. If any party is appearing *pro se*, the name, address and telephone number of such party must be stated.
- (4) In the order, please include the caption of the case, index number and the Court information (IAS Part 47, Justice Paul A. Goetz).
- (5) In a Preliminary Conference form, all items must be completed or marked "n/a" if not applicable.
- (5) Please number the pages (e.g. 1 of 3, 2 of 3, etc.)
- (6) Use complete dates, including the correct year. Please remember that some of the dates you are selecting may be in the next calendar year.
- (7) Use firm cut-off dates such as "on or before December 31, 2016." Do not use "within 45 days," etc.
- (8) Non-specific statements such as "all discovery not yet provided" or "unless otherwise provided" or "to the extent not yet provided" will not preserve any rights. Each attorney is expected to know what has and has not been provided.

#### **IV. Trial Rules**

##### A. Upon the first appearance before this Court, the parties must furnish the following:

- (1) A list of proposed witnesses, including the need for any interpreters.
- (2) An estimate of required trial days.
- (3) All marked pleadings and bills of particulars.
- (4) A copy of any statutory provisions in effect at the time the cause of action arose upon which any party relies.
- (5) Copies of those portions of EBTs intended for use at trial for any purpose.
- (6) A trial memorandum, not to exceed five (5) pages, setting forth the party's position and relevant factual and legal issues to be tried, citing relevant case law.
- (7) All prior decisions in the case, including any appellate decisions.
- (8) Two (2) business cards for each attorney.

##### B. Prior to the start of trial, the parties must furnish the following:

- (1) All motions *in limine* must be presented in writing to the court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties.
- (2) For jury trials, all counsel shall submit proposed jury charges and verdict sheets, which shall be emailed to the court attorney and opposing counsel simultaneously in Word or WordPerfect format.

C. Parties are strongly encouraged to have the court reporter pre-mark all exhibits for identification and/or evidence if there is no objection.

D. It is the duty of counsel to ensure that all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street, Room 145M.

E. Trial dates scheduled by the Court are firm and may only be adjourned for an emergency. Trials are held every weekday except Thursdays. No adjournments will be granted based on the unavailability of a witness to testify unless the Court concludes that good cause exists for the adjournment.

**HON. SHLOMO S. HAGLER** Part 17, IAS General Assignment Part, Room 335, 60 Centre Street.

Courtroom phone: (646) 386-3283  
Part Clerk: Cody Alexander  
Chambers phone: (646) 386-5691  
Principal Court Attorney: Julie Hauptman Cohen, Esq.  
Court Attorney: Meshulom Buls, Esq.

#### COMMUNICATIONS TO PART 17

1. There will be no *ex parte* communication with the Court.
2. Do not copy the court on letters exchanged between the parties.

#### ADJOURNMENTS

1. All adjournments (motions, conferences, trials) require prior court approval. Ex parte applications for adjournments will not be considered. Do not call chambers regarding scheduling matters and requests for adjournments. Please contact the Part Clerk for instructions.
2. Requests to adjourn a conference, in the first instance, shall be directed to the Part Clerk at 646-386-3283. Conferences will only be adjourned by stipulation. The parties must first consult with the Part Clerk before selecting a new date for the conference. Applications to adjourn a conference shall be made at least 24 hours in advance of the scheduled conference.
3. Requests to adjourn a motion that is scheduled for oral argument, in the first instance, shall be directed to the Part Clerk at 646-386-3283. Motions will only be adjourned by stipulation. The parties must consult with the Part Clerk before selecting a new date for oral argument. Applications to adjourn a motion should be made at least 48 hours in advance of the oral argument.
4. All Court approved stipulations to adjourn must be electronically filed by the parties.
5. If a case has settled or has been discontinued, the parties must immediately notify the Part Clerk and efile a stipulation.

#### MOTION PRACTICE

1. Substantive motions with opposition will be scheduled for oral argument on Mondays at 10:00, 11:00 or 2:15, or as otherwise directed.
2. Motions with no opposition are generally not scheduled for oral argument and proposed orders must be submitted.
3. Summary Judgment motions are to be filed no later than 60 days of filing the Note of Issue.
4. Part 17 requires working copies of all motion papers. Working copies of motions are required to be submitted to the Motion Submission Part (Room 130) on the final return date of the motion in that room.
5. All working copies of motion papers must have protruding exhibit tabs identifying the exhibits. All deposition transcripts must have an index.
6. If a case has settled while a motion is pending (or anytime), or if you wish to withdraw the motion (after submission in Room 130 and before oral argument), please advise the Part Clerk immediately.
7. Any party wishing to submit a proposed Order to Show Cause (OSC) containing a Temporary Restraining Order (TRO), in accordance with Uniform Court Rules of NYS 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. Attestation of notification must be included in the application in support of the proposed OSC.

#### TRIALS

On the first appearance, all parties must furnish all marked pleadings and bills of particulars, all notices to admit, all relevant decisions, and all motions *in limine*, and shall advise the Court of any required interpreters.

**HON. SHERRY KLEIN HEITLER** Part 30, IAS General Assignment Part, 60 Centre Street, Room 412, Phone: 646-386-3281 Chambers Phone: 212-428-2130 Fax: 212-428-2192

**Law Clerks:** Steven Helfont, Esq., [shelfont@nycourts.gov](mailto:shelfont@nycourts.gov)

**Part Clerk:** Ken Notto, [knottol@nycourts.gov](mailto:knottol@nycourts.gov); **Admin. Asst:** Valerie Qualls, [vqualls@nycourts.gov](mailto:vqualls@nycourts.gov) **Chambers:** 25 Beaver Street, Room 1128, New York, NY 10004

Motion/Conference Calendar - Mondays on a staggered schedule, starting at 9:30AM in Courtroom 412 at 60 Centre Street.

#### General Part Rules

- The court will not consider any communications unless all parties participate.
- In the first instance, parties may contact the Part 30 Clerk at 646-386-3281 regarding scheduling and requests for adjournments. If the Part 30 Clerk is not available, call chambers at 212-428-2130.
- All adjournments must be consented to by the court.
- All correspondence must be on notice and should be directed to Judge Heitler at 25 Beaver Street, Room 1128, New York, NY 10004. In the case of matters requiring the court's immediate attention, letters may be faxed or emailed. Parties may contact the Part 30 Clerk with any questions.
- Please notify the Part 30 Clerk as soon as a case is settled or to schedule a settlement conference.

#### Conferences

2. Conferences are held in Courtroom 412 on Mondays beginning at 9:30AM. Conference times will be staggered.
3. All counsel must be familiar with the case and have the authority to enter into stipulations and settlements.
4. Relevant documents, including but not limited to prior conference orders and stipulations, must be brought to each conference.
5. Preliminary and compliance conference orders must contain firm cut-off dates such as "on or before June 3, 2015" as opposed to "within 45 days".
6. The court may request that clients attend settlement conferences.

#### Motions

- (1) Argument on motions are held in Courtroom 412 on Mondays beginning at 9:30AM. Argument is required on all motions.
- (2) Part 30 is an E-filing Part. However, the court requires working copies of motion papers. Unless otherwise provided by the court, summary judgment motions must be filed no later than 60 days after filing of the Note of Issue.
- (3) Any request to withdraw a motion while in the Submissions Part should be made in accordance with the Submissions Part's rules. Requests to withdraw a motion after it leaves the Submissions Part should be made on notice to the Part 30 Clerk.
- (4) Any questions regarding the procedure for E-filing proposed Orders to Show Cause should be directed to the Ex-Parte Clerk at 646-386-3125.

**HON. DOUGLAS E. HOFFMAN** Part 44, Matrimonial Division, 71 Thomas Street, Room 210 New York, New York 10013 Principal Court Attorney: Alexandra Lewis-Reisen, Esq. 646-386-4795 Email: [alewisre@nycourts.gov](mailto:alewisre@nycourts.gov) Part Clerk: Antonia Turner 646-386-3370 Email: [aturner@nycourts.gov](mailto:aturner@nycourts.gov)

#### **GENERAL PART RULES**

1. All parties and attorneys must be present on any calendared court date unless expressly excused by the court.
2. All court appearances, except for the initial preliminary conference, shall be assigned a time certain, unless impracticable under the circumstances. All counsel and parties are expected to adhere strictly to that schedule.
3. Preliminary conferences are scheduled by the Matrimonial Clerk's Office and will take place on Thursdays.
4. In newly filed divorce actions, a preliminary conference shall take place on the return date of all motions seeking *pendente lite* relief, unless otherwise directed by the court.
5. At the preliminary conference, parties must provide the court with copies of Statements of Net Worth and the pleadings. Parties shall also submit a child support worksheet and proposed parenting plan when applicable.
6. All papers requiring filing must be filed at 60 Centre Street, N.Y., N.Y. 10007.
7. **ALL MOTIONS SHALL BE BY ORDER TO SHOW CAUSE.** All motion papers, including orders to show cause or cross-motion, opposition or reply, memoranda of law, exhibits, affirmations or affidavits, and proposed orders of settlement, must indicate the motion sequence number on the first page in the upper right-hand corner. The court will not accept sur-reply papers without prior court approval.
8. For all emergency applications, the movant is strongly encouraged to first contact the Part to ascertain a convenient date/time to have the application heard. The movant is similarly strongly encouraged to provide courtesy copies of the emergency papers to the Part (and to the adversary where safe to do so) in advance, even if by email to the court attorney at [alewisre@nycourts.gov](mailto:alewisre@nycourts.gov) if necessary. Emergency applications still have to be filed with the Ex Parte Office and then brought to the Part.
9. Any motion seeking an order transferring Family Court proceedings to Supreme Court must clearly specify which proceeding(s) the party seeks to have transferred to Supreme Court and the basis therefor. The motion must contain a copy of the Family Court petitions and any pertinent orders.
10. Oral argument is required on all motions unless otherwise directed by the court. If a hearing is requested or required, the parties should be prepared to go forward on the return date of the motion.
11. *Ex-parte* requests for issuance of a temporary order of protection must contain the Family Protection Registry Information Sheet, and the party must be present.

12. Any documents pertaining to the action, including, but not limited to, motion papers, responsive papers or correspondence, must not be faxed or e-mailed to the court without the court's explicit permission. All opposition or reply papers must be filed with the Part Clerk at 71 Thomas Street, Room 210, N.Y., N.Y.
13. All attorneys and self-represented litigants must provide their contact information, including email address, telephone number and fax number, to Room 119 at 60 Centre Street, N.Y., N.Y. 10007.
14. The court uses email primarily for short emails about scheduling, or to request a telephone conference on a discrete and urgent issue subject to everybody's consent and the court's availability. The court will conduct conference calls when appropriate in the interests of justice. Requests for conference calls shall be conveyed to the Principal Court Attorney by email, with a copy to all attorneys and *pro se* parties (if any), and shall state the basis for the request. Conference calls shall not serve as substitution for a motion. Please put your short request in the body of the email, and not as an attached pdf letter.

Please do not include the court on lengthy or substantive emails, because we do not want to create the impression that we can review all of them.

15. All adjournments require pre-approval by the court and, barring exigent circumstances, must be requested by conference call with the Principal Court Attorney no later than 10:00 A.M. of the business day immediately preceding the calendared court date. Such conference calls are available between 9:30 - 10:00 AM and 4:00 - 5:00 PM. All requests for adjournment must be in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. If a conference call cannot be arranged in a timely manner, adjournment requests should be in writing, either as a stipulation or as an email to the Principal Court Attorney, copying all counsel and *pro se* parties, and stating whether the adjournment request is on consent, and setting forth which Thursday(s) the parties have agreed to request as the new proposed court date. Barring exigent circumstances, actions adjourned pursuant to a request by the parties will be re-scheduled for a Thursday morning or afternoon call. At that re-scheduled court date, the subsequent court date will be assigned a time certain.
16. All discovery and trial schedules set by the court are final and may be modified or extended only by court order.
17. Pre-Trial Conferences. Part 44 follows the requirements of the Matrimonial Part Rules for documents to be presented at pretrial conferences. The following have to be exchanged (at least one week before the pre-trial conference) and brought to the pretrial conference (with the exception of updated Statements of Net Worth, which must be filed and exchanged at least two weeks before the pretrial conference):
  - Rule 28. Pre-Trial Conference. Unless directed otherwise, all cases scheduled for trial must appear for a pre-trial conference on a date set by the court. All motions in limine must be presented at this time and counsel should be prepared to discuss all evidentiary issues.
  - Rule 29. Mandatory Pre-Trial Submissions. At the pre-trial conference, counsel shall provide the court (a) marked pleadings (if grounds are in issue), (b) proposed statement of disposition, (c) child support worksheet (if applicable), (d) updated net worth statement, (e) list of all proposed exhibits, (f) witness list, with offer of proof for each, (g) any expert report not previously provided, (h) pre-trial memoranda and (i) proof of filing of the note of issue.

Please also note that Part 44 utilizes the protocol for Prepared Direct Examination of Witness by Affidavit, on consent. This protocol is available in the Part or upon request to the Principal Court Attorney. Please be prepared to discuss at the pre-trial conference whether you will be proceeding by direct by affidavit for all or some of your witnesses.

18. At the pretrial conference, a time frame will be set for the parties to provide the court with pre-marked documents to be submitted into evidence on consent and a written statement of issues or facts to which the parties stipulate in advance of trial.
19. Any attorney seeking to withdraw from a case must file a motion by order to show cause seeking to be relieved as counsel where the granting of such an application would result in the party being self-represented.
20. All judgments of divorce must contain a form VS 140 containing the social security number of both parties. All judgments must be submitted within 60 days or the action may be deemed abandoned and dismissed. All Qualified Domestic Relations Orders must be submitted within 45 days of the signing of the Judgment and must be accompanied by written plan approval. At the conclusion of trial, each party must retrieve exhibits from the courtroom within 30 days.
21. E-Filing: new contested matrimonial cases in Part 44 are encouraged to be e-filed through the New York State Courts E-Filing (NYSCEF) system. The form to convert a paper case to e-filing is at <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/stipulation.and.consent.pdf>. Please note that, usually, only documents filed after the conversion are accessible through NYSCEF, so early conversions (including before a Preliminary Conference) are encouraged. For e-filed cases, Part 44 is a paperless part. To the extent possible, e-filed documents should be text-searchable. Working copies of filings are not required. Please do not send courtesy copies of any documents that are e-filed, with the following exceptions:
  - a. Documents requiring Judge Hoffman's signature, including proposed orders and stipulations, which must be e-filed AND the original must be sent to Justice Hoffman by either mail or messenger;
  - b. Proposed orders to show cause.

Any questions regarding the e-filing system should be addressed to the NYSCEF Resource Center at 646-386-3033. Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at 646-386-3125.

**HON. BARBARA JAFFE**, Part 12, IAS General Assignment Part, Courtroom: 60 Centre Street, Room 341, Part Clerk: 646-386-3273, Fax Number: 212-401-9191 (please reference "Part 12, Attention: Hon. Barbara Jaffe") **Chambers:** 646-386-3727, **Principal Court Atty:** Catherine Paszkowska, [cpaszko@nycourts.gov](mailto:cpaszko@nycourts.gov) **Asst. Law Clerk:** Rachel Morgenstern, [rmorgens@nycourts.gov](mailto:rmorgens@nycourts.gov)

## **I. COMMUNICATIONS WITH THE PART AND CHAMBERS:**

- A. SCHEDULING MATTERS AND ADJOURNMENT REQUESTS - all such inquiries must be directed to the Part Clerk, Mike Kasper. PLEASE DO NOT CALL OR WRITE CHAMBERS.

Adjournment requests for matters pending in the Motion Submission Part Courtroom and not yet scheduled for oral argument should be made in accordance with the general procedures for the New York County Supreme Court at

[www.nycourts.gov/supctmanh/motions\\_on\\_notice.htm](http://www.nycourts.gov/supctmanh/motions_on_notice.htm)

Please do not call chambers or the Part 12 clerk to adjourn a motion pending in the Motion Submission Part Courtroom.

- B. *EX PARTE COMMUNICATIONS ARE STRICTLY PROHIBITED* except for scheduling matters with the Part 12 clerk.
- C. DO NOT WRITE LETTERS OR EMAILS TO THE COURT UNLESS YOU:
1. seek to withdraw a motion in whole or part;
  2. wish to advise the court that a case is settled; or
  3. were granted leave to do so at oral argument or by the court.
- D. DO NOT COPY THE COURT ON LETTERS EXCHANGED BETWEEN COUNSEL. The court will not read them.
- E. SEND NOTHING TO CHAMBERS UNLESS SO DIRECTED BY THE COURT. Stipulations, papers, etc. should be e-filed or delivered to the appropriate clerk.

## **II. PRELIMINARY AND COMPLIANCE CONFERENCES:**

Conference Courtroom: 60 Centre Street, Room 341

Conferences are held on Wednesdays at 2:15 pm in room 341, or as otherwise directed

### **A. Procedures:**

Counsel appearing at a discovery conference are expected to be familiar with the case and to have the authority to discuss all discovery issues and to settle, and must bring to each conference a list of all outstanding discovery.

Upon a party's first failure to appear for a conference, the conference will be adjourned.

Upon a party's failure to appear for the adjourned conference, the case will be dismissed or the party's pleadings will be stricken.

### **B. Scheduling:**

*Preliminary conferences* may be scheduled pursuant to an RJ1 or a motion.

Alternatively, any party in an action in which an RJ1 has already been filed may contact the Part Clerk to schedule a preliminary conference.

*Compliance conferences* may be scheduled pursuant to a prior discovery order, decision on a motion, or by contacting the Part Clerk.

The next compliance conference, if any, shall be scheduled no later than three months from the prior conference date.

Notes of issue will be scheduled for the week after the next conference date or, if no further conference is scheduled, within 60 days after the last discovery deadline agreed to by the parties.

### **C. Adjournments:**

*Adjournments are strongly discouraged* and requests for them must be directed to the Part Clerk by telephone conference call *only* and no later than 4 pm on the preceding Tuesday. *Adjournments by stipulation will not be accepted without prior court approval.* Adjournments will be granted for good cause shown.

If a case has settled, the parties must promptly fax the Part Clerk a stipulation of settlement and discontinuance containing all pertinent information regarding the settlement. Until the stipulation is received, the conference will not be adjourned and the parties will be expected to appear. (See II.A.).

## **III. MOTIONS:**

### **A. General Procedures:**

Motions will be scheduled for oral argument by the court and will be held on Wednesdays beginning at 9:30 am in room 341 at staggered intervals.

Sur-replies are not permitted; letters and papers are not accepted after the return date unless on the consent or order of the court.

*All motion papers, including notices of motion, opposition, reply, memoranda of law, exhibits, affirmations, and affidavits, must reflect the respective motion sequence number on the first page in the upper right-hand corner.*

If a motion has been withdrawn or settled whether or not *sub judice*, the parties must promptly fax the Part Clerk a stipulation. This is an exception to the “no letter” rule.

*All summary judgment motions must be filed within 60 days after the filing of the note of issue.*

Information about decisions on motions should be obtained by checking with the appropriate clerk’s office, the New York Law Journal or the court’s website at

[www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)

under “case information” or

[www.nycourts.gov](http://www.nycourts.gov)

under the E-courts link.

*Please do not call the Part Clerk or chambers to check on the status of a decision.*

#### **B. Page Limits:**

Per Rule 14(b) of Rules of the Justices, New York County Supreme Court Civil Branch, memoranda of law shall not exceed 30 pages each (exclusive of tables of content and authorities), and affidavits/affirmations shall not exceed 25 pages each, double-spaced.

#### **C. E-Filing:**

*Part 12 is an e-filing part. However, working hardcopies of only the e-filed affirmations and memoranda of law must be submitted at oral argument on motions. All working hardcopies must have attached to them a confirmation notice that a copy of the documents has been e-filed.*

Questions regarding e-filing should be addressed to the E-Filing Office at 646-386-3610 or at

[efile@courts.state.ny.us](mailto:efile@courts.state.ny.us)

Answers to frequently asked questions may be found at

[www.nycourts.gov/supctmanh/E-filing.htm](http://www.nycourts.gov/supctmanh/E-filing.htm)

#### **D. Oral argument:**

After motions are fully submitted in the Motion Submission Part Courtroom, they are forwarded to Part 12, and will then be scheduled for oral argument. The parties will be notified of the oral argument date via eTrack (<http://iapps.courts.state.ny.us/webcivil/etrackLogin>).

Motions submitted on default or without opposition are not scheduled for oral argument.

Motions may be adjourned by stipulation signed on consent of all parties if:

1. a reason for the adjournment is set forth in the stipulation, and
2. the stipulation is filed with the clerk no later than 4 pm the preceding Tuesday afternoon.

If the parties cannot agree to the adjournment, they may contact the Part Clerk by conference call. However, parties are reminded of the importance of cooperating with one another.

#### **E. Discovery Motions:**

***DISCOVERY MOTIONS ARE STRONGLY DISCOURAGED.*** If a discovery dispute arises before the issuance of a preliminary or compliance conference order and a party has made a formal discovery motion, a conference will be scheduled for the return date of the motion.

If a discovery dispute arises *after* the issuance of a preliminary or compliance conference order, it must be directed to the Part Clerk who will promptly schedule a new conference or advance the date of a previously-scheduled conference.

#### **F. Orders to Show Cause**

*Reply papers are not accepted* on an order to show cause absent express permission.

### **IV. PRE-NOTE SETTLEMENT CONFERENCES:**

The court will conduct pre-note settlement conferences upon the request of all parties.

The parties must fill out and sign a conference request form which is available from the Part Clerk. Once the request is submitted, the court will contact the parties to schedule the date and time of the conference. The conference will usually be held on a Wednesday afternoon.

*Counsel must keep in mind the following rules:*

1. attorneys who appear for the conference must be knowledgeable about the case and must bring any relevant documents;
2. only attorneys with authority to settle the case may appear;
3. if an insurance company is involved, an adjuster or someone from the company authorized to enter into a settlement must appear;
4. attorneys may, but are not required to, bring their clients to the conference;
5. if a settlement is reached, the parties, through their attorneys, will be expected to sign a stipulation of settlement at the conference; and
6. requests to adjourn the pre-note settlement conference must be in writing, signed by all parties, and sent to the court by 5 p.m. the day before the conference.

## **V. TRIALS:**

### **A. Requirements:**

Upon the first appearance before this court, the parties must furnish the court with the following:

1. a list of proposed witnesses including the need for any interpreters with the required language and dialect;
2. all marked pleadings and bills of particulars;
3. all prior decisions in the case;
4. any notices to admit; and
5. copies of those portions of EBTs intended for use at trial for any purpose.

### **B. Jury Trials:**

Just prior to opening statements, the parties must furnish the court and opposing counsel with the following:

1. *Proposed jury instructions*, with the following provisos:
  - a. if the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI numbers will suffice; and
  - b. if a PJI instruction is not verbatim or requires a characterization or description of the evidence or the parties' contentions, the exact requested language must be submitted together with the authority for it.
2. *Proposed jury verdict sheet*, with the following provisos:

The proposed instructions and verdict sheet must be emailed as an attachment in WordPerfect or Word format to [cpaszko@nycourts.gov](mailto:cpaszko@nycourts.gov) and to opposing counsel *simultaneously*. Do not assume that the email has been received until a confirmation email is sent to you. If no confirmation is received within 24 hours of the email's transmission, please call the court attorney for further instructions.
3. Parties are strongly urged to have the court stenographer pre-mark all exhibits for identification and/or in evidence if without objection. Any *in limine* issues are best raised before trial commences or at the beginning of the day on which a party expects to offer the exhibit.

## **VI. OTHER:**

### **A. Change of Counsel:**

If counsel is changed on consent, a copy of the form shall be filed in the General Clerk's Office (Room 119). Filing with the County Clerk will not suffice. Absent submission of a consent form, the attorney of record will remain on the case unless and until a motion for leave to withdraw is granted. If such an order is issued, outgoing counsel must serve a copy of the decision granting leave to withdraw on the General Clerk's Office and on all other counsel. A notice of appearance shall be filed by substitute counsel with the General Clerk's Office and the Part Clerk.

**HON. DEBRA A. JAMES** Part 59, IAS General Assignment Part, Room 331, 60 Centre Street, Phone: 646-386-3351, Email: [59nyef@nycourts.gov](mailto:59nyef@nycourts.gov)

## **IAS Part 59 Clerk Makera Monroe**

**Oral Argument of Motions:** Tuesdays, 10:00 AM, 11:00 AM, 2:30 PM

**Preliminary Conferences:** Tuesdays, 9:30 AM

**Compliance Conferences:** Tuesdays, 11:00 AM

**Status Conferences:** Tuesdays, 10:00 AM and 2:30 PM

**Pre-Trial Conferences:** Tuesdays, 12 noon

**Appearances by Counsel:** Counsel and unrepresented party, if any, appearing for a conference, oral argument on a motion, or other matter, shall note her/his appearance on the calendar, which is posted outside the courtroom. For oral argument of motions brought by Notice or Show Cause Order (OSC), upon arrival of all parties, counsel and any unrepresented party shall present to Part Clerk Makera Monroe two sets of business cards, with the party for which the appearance is made indicated on the face of such card. The Part Clerk will call each matter in the order in which all parties have so marked their appearances as present. Prior to such call of a discovery conference, counsel must also complete and submit the appropriate form (**or if disputed, counter proposed orders**) to the Part Clerk. At each discovery conference, counsel shall be prepared to produce copies of all prior discovery stipulations and orders.

### **Preliminary Conferences:**

Counsel, and any unrepresented party, shall be provided with a blank discovery stipulation and order to set a timetable for discovery within parameters established upon the determination by the Court of whether the action should be designated as “expedited”, “standard” or “complex. If all parties sign and return the stipulation to Part 59 prior to the scheduled conference, such form shall be “so-ordered” by the Court and, unless the Court orders otherwise, appearances will not be required at the preliminary conference. Once the preliminary conference stipulation has been “so-ordered”, no extensions of deadlines are permitted, except by further stipulation of all parties so-ordered by the court in advance of the applicable deadline(s) set forth in such order.

### **NYSCEF and Working Copies:**

In accordance with the Procedure for Electronically Filed (NYSCEF) Cases Protocol Section D.5(a), in all Part 59 NYSCEF cases, unless otherwise directed, counsel shall submit working copies of e-filed documents that are intended for judicial review. (Working copies are not required for preliminary conference requests or notes of issue.) In accordance with the Procedure for Electronically Filed (NYSCEF) Cases Protocol Section D.5(a), generally, documents intended for judicial review must be filed by uploading to the NYSCEF system first and the working copies thereof delivered to the General Clerk’s Office thereafter. Working copies that are submitted without the related Confirmation Notice will not be accepted. Working copies are intended only for the use of the Justice and will be discarded after resolution of the matter.

### **Motions:**

After full submission of all papers to the General Clerk’s Office, contested motions shall be scheduled by the Part Clerk for oral argument. Attorneys are responsible for monitoring all scheduled appearances for their cases, and by enrolling in the WebCivil Supreme e-tracking service ([nycourts.gov/e-courts](http://nycourts.gov/e-courts)), will receive email updates and appearance reminders for each of their Civil Supreme Court cases.

### **Orders to Show Cause:**

Orders to Show Cause (OSC) are signed and made returnable in the Part, unless directed otherwise. Working copies of responsive papers on OSCs shall be presented to the Judge on the return date. For any adjournment of the return date of a Show Cause Order, by conference call with all parties, counsel shall notify the Judge, via Part Clerk Makera Monroe (646-386-3351) two business days before the scheduled return date. Upon approval by the court of any such adjournment, including extensions of any service dates, the stipulation of OSC adjournment shall be emailed or delivered to the court by 4 PM on the business day preceding the originally scheduled return date.

### **Adjournments:**

If the parties consent to an adjournment of a discovery conference or oral argument of a motion brought by Notice, the Part Clerk, Ms. Makera Monroe (646-386-3351) must be notified two business days before the scheduled return date. Upon approval by the court, the stipulation of adjournment shall be emailed or delivered to the court by 4 PM on the business day preceding the return date. Adjournments of hearings and trials shall be granted in accordance with 22 NYCRR (Uniform Rule) 125.1.

### **Disputes Concerning Discovery Conference Orders:**

**Motions to compel compliance with discovery conference orders or discovery demands are generally disfavored by the court.**

If counsel are unable to resolve a discovery dispute through good faith efforts (see Uniform Rule § 202.7 [a]), within any applicable discovery deadline, i.e., in advance/anticipation of any party’s failure to meet such deadline, the aggrieved party shall contact the court by concise e-mail message specifically describing the discovery sought/ordered to [59nyef@nycourts.gov](mailto:59nyef@nycourts.gov) with cc: to all counsel or self-represented litigant, and make best efforts to arrange a conference call (646-3351) with the court. Counsel may request rulings on deposition disputes by conference call, or if the court is unavailable, by presenting a transcript of pertinent excerpts of such deposition to the court at the next scheduled discovery conference.

### **Trials:**

At the pre-trial conference, the court will distribute to each party a Pre-Trial Information Sheet and Stipulation and Order that require, inter alia, a statement of undisputed facts, prospective motions in limine, list of exhibits with exhibit designations, and estimate of trial days, which each party, severally or jointly, must complete and submit to the court within one week before the date set for trial.

**Miscellaneous** There will be **no ex parte communications** with the court, except in accordance with OSCs seeking relief in accordance with Uniform Rule § 202.7(f).

**HON. FRANCIS A. KAHN III**, IAS General Assignment Part 14, 111 Centre Street, Room 1045

Courtroom phone: (646) 386-3219

Principal Law Clerk: John M. Collins, Esq.

Assistant Law Clerk: Kiran Kanwar, Esq.

Part Clerk: Tamika S. Wright

**Oral Argument and Conferences on Motions:** Tuesdays at 9:30 a.m.

**All Conferences:** Tuesdays at 9:30 a.m.

#### **I. COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS**

##### **A. Scheduling Matters and Requests for Adjournments:**

- i. Please do not communicate with chambers by any means concerning adjournments of all matters. **ALL** requests for adjournments are to be directed to the Part Clerk.
- ii. A preliminary or compliance conference may be adjourned once on consent for no more than 30 days. A stipulation agreeing to the adjournment must be e-filed and a copy of the stipulation must be filed with the Part Clerk at least 24 hours in advance of the conference date either by hand delivery or email at [tswright@nycourts.gov](mailto:tswright@nycourts.gov). Any adjournment by stipulation submitted less than 24 hours prior to the scheduled conference must be approved by the Court. Further adjournments require Court leave.
- iii. For all motions pending in the Submissions Part (60 Centre Street, Rm. 130), follow that part's rules regarding adjournments, scheduling, and withdrawals.
- iv. Requests for adjournment of a calendared motion must be made upon consent of all parties by written stipulation 24 hours in advance. The stipulation must be e-filed and either hand delivered or e-mailed to the Part Clerk at [tswright@nycourts.gov](mailto:tswright@nycourts.gov). Requests for adjournment of a motion made on the day of oral argument must be made in person. **Adjournments of a motion by stipulation received less than 24 hours in advance of the oral argument date may not be accepted.**
- v. Parties can request a pre-note settlement conference by calling the Part Clerk.

**B. No ex parte communications.** Please do not call or e-mail the Justice or his Court Attorneys. It is not necessary to copy the Court on letters and documents exchanged between counsel. Such communication will not be reviewed.

- i. Calls to chambers specifically authorized by the Court may only be placed by attorneys. No law office employees, assistants or aides may call chambers. Please be sure all parties are on the line before conferencing with the Judge or Court Attorney.
- ii. **DO NOT** call the Part Clerk or chambers for a status update or to ask whether a decision has been issued. All decisions and orders are scanned and available online via [nycourts.gov](http://nycourts.gov).

#### **II. MOTION PRACTICE - WORKING COPIES OF MOTION PAPERS ARE ONLY REQUIRED AT THE DIRECTION OF THE COURT.**

- A. All discovery motions will be calendared for a conference with the Court. All other motions may be calendared at the discretion of the Court.
- B. Once all parties are present on a motion, notify the Part Clerk, and the case will be called for argument or conference at the discretion of the Court.
- C. Counsel should not submit a single .pdf file under a single document number for all papers submitted on a motion. Each e-filed document must have its own respective document number (e.g. Doc #10, Notice of Motion).
  - i. Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations to the exact page within the exhibit. Each exhibit must have protruding exhibit tabs identifying the exhibit.
  - ii. All exhibits electronically submitted must be described in the heading of the attached exhibit (e.g. Exhibit A – Bill of Particulars), so that it is known what document is filed in the exhibit.
  - iii. Memoranda of law must be separated from other papers.
- D. Citation to deposition testimony must include notation of page and line number in transcript. Entire transcript must be provided not simply excerpts.
- E. Reference to any other voluminous exhibits annexed to a motion must include pinpoint citations noting the exact location within the exhibit.
- F. After motions are fully submitted, the Court will not permit additional submissions. Letters to the Court after oral argument or submission regarding sub judice motions will be returned to counsel.
- G. **Discovery Motions:**
  - i. If a discovery dispute arises, parties in lieu of filing a motion, are encouraged to request a conference by calling the Part Clerk. Conferences will be granted at the Court's discretion.

#### **III. CONFERENCES**

- A. Counsel attending conferences shall be familiar with the case and have authority to discuss and stipulate to resolve all discovery issues.
- B. When all parties are present, please complete a stipulation or preliminary conference order with dates for completing discovery. End date of discovery, impleader deadline, future conference date, and note of issue dates will be chosen by the Court.
- C. If during a conference, counsel must appear in another part, notify the Part Clerk and all other parties, and provide a telephone number at which you may be reached.
- D. At compliance conferences, counsel must bring a list of all outstanding discovery.

#### **IV. TRIALS**

- A. Parties assigned to this part for trial must furnish the following:
  - i. A list of proposed witnesses, including the need for any interpreters with the required language and dialect.
  - ii. Marked pleadings and all bills of particulars.
  - iii. All decisions in the case on dispositive motions, including appellate decisions.
  - iv. Any notices to admit and responses.
  - vi. Copies of EBT's intended for use at trial.

- B. For jury trials, the following shall also be provided:
- (a) Proposed jury instructions. If requested instructions are verbatim Pattern Jury Instructions, only PJI cites are necessary. If a PJI instruction is not verbatim, the entire text with additions or changes in italics must be provided to the Court and to opposing counsel.
  - (b) Proposed verdict sheet.
  - (c) In limine motion or other applications must be submitted to the Court prior to the commencement of trial with copies for opposing counsel. Whenever practicable, in limine motions should be brought to the attention of the Court at the pre-trial conference. Any such motion or application must include citations to relevant authority.
  - (d) Exhibits are to be pre-marked for identification, or in evidence if counsel agree, prior to the commencement of trial.
  - (e) Counsel shall confirm all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street prior to trial.

**HON. ROBERT D. KALISH** Part 29, IAS General Assignment Part, Room 104, 71 Thomas Street Phone: 646-386-4039, Fax: 212-618-5242; **Associate Law Clerk:** Justin Mahony, Esq., **Assistant Law Clerk:** Joshua Demopoulos, Esq. **Courtroom Part Clerk:** Lohoma Shipman

**Conferences and Oral Argument** are usually on Tuesdays at 9:15 a.m. and 2:15 p.m. in the Trial & Motion Courtroom.

#### **I. Preliminary and Compliance Conferences**

- A. All preliminary conferences and compliance conferences commence at 9:15 a.m. Parties will appear on time and be prepared to conference with the Court.
- B. Parties shall sign in with the court officer. Cases will be heard in the order of appearance of all parties to an action.
- C. Parties must appear for all conferences with copies of all prior orders, including preliminary and compliance conference orders issued in the underlying action.
- D. Parties attending the conference are expected to be familiar with the underlying case and have the authority to discuss and resolve all discovery issues.
  1. Any attorney appearing on behalf of a party at a preliminary or compliance conference must be fully prepared to discuss the details of the underlying action and have a working knowledge of any material issues. This includes "per diem" attorneys and junior associates.
  2. Attorneys must be able to provide information about any pending appeals, prior motion practice, outstanding motions and motions that they intend to file within the immediate future.
- E. Parties shall prepare the relevant preliminary conference and compliance conference forms prior to conferencing with Justice Kalish or his court attorney. Preprinted forms are available in the courtroom.
  1. Parties will submit their completed preliminary conference and compliance conference forms to the court officer to be reviewed by the Court.
  2. Scheduled EBTs may **NOT** be adjourned without prior Court approval.
- F. Do not leave the courtroom until either Justice Kalish or his court attorney have reviewed your completed orders and Justice Kalish has signed the order or stipulation.
- G. Unless otherwise scheduled by the Court, a party that fails to appear before the Court for a morning preliminary or compliance conference by 11:00 a.m., or, in the case of afternoon compliance conferences, by 3:30 p.m., may have a default judgment (22 NYCRR 202.27) entered against them or have their case dismissed based upon their failure to appear for the conference.
- H. Any requests for adjournments of preliminary conferences or compliance conferences must be made at least two business days prior to the scheduled conference date.
  1. Said request can be made by calling the part clerk directly followed by e-filing and then faxing a written stipulation by the parties to the part clerk for approval by the Court.
  2. The Court will not consider any requests for an adjournment made fewer than two business days prior to the appearance date absent an emergency and a written stipulation by all parties consenting to the adjournment.
  3. All requests for adjournments must be approved in advance. Without prior approval, a stipulation will not be accepted regardless of the parties' consent and any failure to appear may result in a default.
- I. Failure to complete so-ordered discovery may result in penalties.

#### **II. Motion Practice - Oral Argument on Tuesdays at 2:15 p.m. Notification is done via E-TRACK (see III [D] below).**

- A. For all motions pending in the Submissions Part (60 Centre Street Room 130), the Parties will follow that Part's rules regarding adjournments, scheduling, and withdrawals.
- B. With the exception of non-e-filed cases that were originally submitted before other Justices, Part 29 is an e-filing part and requires that working copies be filed at the Motion Submissions Part. Do not send courtesy copies to chambers unless directed to do so. Any questions regarding the e-filing system should be addressed to the E-Filing Office at 646-386-3033 or at [newyorkef@nycourts.gov](mailto:newyorkef@nycourts.gov).
  - a. All e-filed papers shall be entered into the e-filing system in PDF format, and it is encouraged that searchable text be included.

- b. All exhibits to e-filed papers shall be e-filed separately as exhibits and appropriately identified. (Parties will not e-file exhibits as part of other e-filed papers themselves.)
  - c. If a party fails to e-file their papers in accordance with the above stated rules, the Court may require that the party re-e-file their papers at the party's expense.
- C. The Court requires "working copies" of all motion papers. The parties must submit working copies of all their papers to the Submissions Part. No additional courtesy copies are required.
- D. Motion papers shall be clearly labeled as Notices of Motion, Affidavits in Support, Affirmations in Support, Memoranda of Law and Exhibits. The same goes for Opposition Papers and Reply Papers.
  - 1. Motion papers shall consist of Moving Papers, Opposition Papers, Reply Papers and the attached affidavits, affirmations, exhibits and memorandums of law. The Parties shall not submit any sur-replies or additional papers unless the Court has granted express permission to do so.
  - 2. The first page of all motion papers, including notice of motion, opposition, reply, exhibits, affirmations, memoranda of law, etc., must **reflect the respective motion sequence number** and index number in the upper right-hand corner.
  - 3. The Parties' submitted papers shall be written in double-spaced, 12 pt. Times New Roman font with one-inch margins.
  - 4. All submitted documents including Affirmations and Memoranda of Law shall be at most **15** pages in length unless the Court grants permission otherwise, prior to submission. Parties may not "shift" this page limit to exceed 15 pages on a submitted document (i.e., submitting a 10-page affirmation in support does not permit the submission of a 20-page memorandum of law). Affirmations and memoranda must have page numbers at the bottom of each page.
  - 5. Every motion must have its own full set of motion papers specific to the motion. Parties may not submit omnibus motion papers—do not submit papers intended to be applicable to multiple motions.
  - 6. E-filed motions are strongly encouraged to contain hyperlinked case citations, bookmarks, and searchable text.
  - 7. All substantive legal arguments including references to statutes and case law shall be made in Memorandums of Law, **only**, which shall be submitted and e-filed **separately** from any Affirmations or Affidavits.
  - 8. **Legal arguments are not to be included in Affirmations.** Do not cite cases in affirmations. Instead, separately file a memorandum of law.
  - 9. The working copies shall be delineated into separate items, unattached from each other, as follows:
    - a. Affirmations;
    - b. Memoranda of Law;
    - c. Affidavits;
    - d. Deposition Transcripts; and
    - e. All other exhibits.
  - 10. Full deposition transcripts shall be submitted as part of the working copies as separate documents **unattached** to any Affirmations, Affidavits or Memorandums of Law. Parties are encouraged to submit transcripts in minuscule format where possible. All other exhibits shall be bound together, **separated by protruding exhibit tabs**.
  - 11. Deposition transcripts shall be labeled to indicate both their exhibit number/letter and to identify the deposed individual. Each deposition transcript shall be submitted as a separate exhibit.
  - 12. Any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions." The failure to follow this rule may result in the denial of the motion with leave to bring it again upon proper papers, but only so long as any deadlines have not already passed – that is, a filing deadline will not be extended. As with deposition transcripts, any reference to any other voluminous exhibit annexed to a motion must include pinpoint citations so that the exact location within the exhibit can be easily located. For example, a citation to physical therapy notes contained within an exhibit of medical records should be identified as "see physical therapy note dated xx/xx/xx, exhibit B, at page 9"; it should not just refer the court to the exhibit as a whole.
  - 13. If one party has attached a deposition transcript, do not submit an additional copy.
  - 14. All Notices of Motion, Affidavits in Support, Affirmations in Support, Memoranda of Law or similar papers shall be appropriately captioned so as to include: the parties, jurisdiction, venue, index number, and motion sequence number.
  - 15. In the event that a party is responding to multiple motion sequences, said party must submit working copies for each motion sequence number to which it is responding and note the motion sequence number on the working copy.
  - 16. Parties are encouraged to submit proposed orders and proposed judgments where doing so will prove helpful to the Court.
  - 17. If a motion has been filed, and it is subsequently resolved, the movant must immediately call the Court at (646) 386-4039. The movant shall subsequently e-file and fax (with confirmation of e-filing) a stipulation withdrawing the motion.
- E. All applications for admission pro hac vice shall be made by motion. The motion shall include an affidavit of support from a member of the Bar of the State of New York, an affidavit from the applicant, and a recent certificate of good standing from the applicant. The affidavit of the applicant must advise the Court as to the total number of times the applicant has applied to be admitted in New York pro hac vice and how many times the application has been granted and/or denied. The affidavit must also advise the Court whether the pro hac vice applicant has ever been or is presently the subject of a disciplinary proceeding.
  - 1. If the motion for pro hac vice is unopposed, moving counsel shall so advise the Court by facsimile to expedite review of the motion.
  - 2. Moving counsel may also submit a stipulation stating that opposing counsel does not specifically oppose the motion for admission pro hac vice to expedite review of the motion.
- F. Orders to Show Cause:
  - 1. Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at 646-386-3125.
  - 2. All parties must submit hard copies of motion papers filed with an order to show cause to the Part Clerk in the courtroom, Room 104.

3. All parties must schedule a date and time to appear before the Court and movant shall state to the Court why the Order to Show Cause should be signed.
  4. Any party seeking immediate injunctive relief within an Order to Show Cause (i.e. TRO) must appear with the affected adversary or proof that the adversary was notified but declined to appear when the application is presented for signature.
  5. Orders to Show Cause will be returnable in the Part. Responsive papers to orders to show cause must be delivered to the courtroom at least 3 business days prior to the return date unless the Court indicates otherwise.
  6. Absent an emergency, orders to show cause may not be adjourned.
- G. Motions to Renew/Reargue: All motions to renew or reargue must contain all papers submitted on the original motion and a copy of the Court's decision.
- H. Discovery motions are strongly discouraged.
1. If a discovery dispute arises which cannot be resolved by diligent, good faith efforts, any party, in lieu of filing a motion, must request an expedited conference by submitting a letter stating the issue to the Part Clerk. Conferences requested on an expedited basis will be granted only at the Court's discretion. Such request is to be e-filed on NYSCEF and then faxed to (212) 618-5242 (attn: L. Shipman) with confirmation of e-filing.
  2. A party may not make a discovery motion without leave from the court.
  3. If a party has made a formal discovery motion, a conference will be scheduled for the same date as oral argument and will be conducted prior to counsel being heard on the motion.
- I. Summary Judgment Motions: All summary judgment motions must be filed within 60 days of the filing of the note of issue. Counsel's affirmation in support must include the note of issue filing date. Motions for summary judgment prior to the completion of discovery are discouraged. Discovery must continue while any CPLR 3212 motion is pending unless otherwise ordered by the Court.
1. Discovery is not stayed pending the determination of summary judgment motions or other motions unless specifically indicated by the Court.

### III. Communications with Chambers

- A. Unless otherwise directed by the Court, Parties will not copy the Court on letters exchanged between the Parties.
- B. For all case administration matters (e.g. scheduling), Parties shall first attempt to call the Courtroom Part Clerk at (646) 386-4039, before calling chambers at (646) 386-4015.
- C. Parties wishing to schedule an in-court or telephone conference must do so by conference call, with all appearing parties, to the Part Clerk.
- D. If a motion has been withdrawn or the case has been settled or otherwise discontinued, please immediately notify the Part Clerk by phone and then e-file and fax a stipulation (with e-filing confirmation) executed by all affected parties.
- D. Attorneys are strongly recommended to sign up for E-TRACK to follow their case. It is FREE and the case does not have to be an e-filed case to track it. Sign up by going to <https://iapps.courts.state.ny.us/webcivil>

### IV. Trials

- A. Upon the first appearance before this Court, the parties must furnish the following:
1. A list of proposed witnesses, including the need for any interpreters with the required language and dialect;
  2. An estimate of required trial days;
  3. All marked pleadings and bills of particulars;
  4. All prior decisions in the case, including any appellate decisions;
  5. Any notices to admit;
  6. Copies of EBTs intended for use at trial for any purpose;
  7. If necessary, a trial memorandum, not to exceed five (5) pages, briefly setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law; and
  8. Two (2) business cards for each attorney.
  9. For jury trials:
    - (a) Proposed jury instructions. If the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI numbers will suffice. If a PJI instruction is not verbatim or requires characterization or description of the evidence or the parties contentions, or if the language is not based on the PJI, the exact requested language, together with the authority for it, must be submitted in .docx format to [iddemopo@nycourts.gov](mailto:iddemopo@nycourts.gov) and to opposing counsel simultaneously;
    - (b) Proposed jury verdict sheet must be submitted in .docx format to [iddemopo@nycourts.gov](mailto:iddemopo@nycourts.gov) and to opposing counsel simultaneously.
- B. Prior to the start of trial, the parties must furnish all *in limine* or other applications. All motions *in limine* must be presented in writing to the Court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties. Any such motion or application must include citations to relevant authority.

- C. All exhibits are to be pre-marked for identification prior to the commencement of trial by the court stenographer.
- D. It is the duty of counsel, not Court personnel, to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.
- E. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency.
- F. Due to the courts conference days and motion days most jury trials, unless told otherwise, will not be conducted on Tuesdays.
- G. Appropriate cases shall be bifurcated for trial by the court (22 NYCRR 202.42).

**HON. DEBORAH A. KAPLAN** Part 20, Matrimonial Part, Room 540, Courtroom Phone: 646-386-3300; Chambers Phone: 646-386-5567; Fax: 212-401-9037

<b>Principal Law Clerk:</b>	Joan G. Levenson, Esq.	<b>Principal Court Analyst:</b>	Michelle Furey
<b>Assistant Law Clerk:</b>	Deanna J. Lucci, Esq.	<b>Administrative Aide:</b>	Sarita Whitehead
<b>Part Clerk:</b>	Ira Liffman		

Rules (effective March 25, 2009):

**GENERAL PART RULES**

All court appearances are on a staggered schedule.

All adjournments require the prior approval of the court.

All adjournments due to the actual engagement of counsel shall be granted in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. Affirmations must be faxed to the Court at least one (1) day prior to the court appearance.

All parties **must** be present for all appearances and conferences unless excused by the Court.

Correspondence, whether by mail, e-mail or facsimile, between counsel is **not** to be copied to Chambers.

Pursuant to 22 N.Y.C.R.R. 202.16(d) a R.J.I. **must** be filed within the forty-five (45) days of the date of service of the summons **unless an affidavit of no necessity is filed**, in which event the R.J.I. must be filed within one hundred and twenty (120) days.

All papers submitted to Part 20 **must** include a fax number.

**MOTIONS**

Wednesday is designated as motion day.

Oral argument is required on all motions and orders to show cause, unless directed otherwise by the Court.

Counsel are required to file all responsive papers in Part 20. All exhibits are to be identified by tabs. Cross motions are to be filed with the Matrimonial Clerk's Office **two (2)** days prior to the return date.

Motions may not be adjourned on consent more than once without court approval. Counsel are directed to submit a written stipulation reflecting their consent which must include additional available dates.

Counsel are reminded that the CPLR does not provide for sur-reply papers or allow the presentation of papers or letters to the court after argument of a motion. Sur-replies, letters and the responses to such letters addressed to the substance of motions will not be considered.

Any allegations of fact submitted to the court, including allegations contained in an affidavit and/or the complaint, must be certified by counsel in the form prescribed by the Chief Administrative Judge.

**ORDERS OF PROTECTION**

Ex- parte requests for orders of protection must be accompanied by the Family Protection Registry Information Sheet and the litigant must be present. Motions to consolidate Family Court orders of protection actions must contain a complete copy of the Family Court file.

**PRELIMINARY CONFERENCE**

Preliminary Conferences will be held on Wednesdays and Thursdays, unless notified otherwise by the Court. The conference must be held within forty-five (45) days of the filing of an R.J.I. **The party seeking judicial intervention is required to notify**

**the opposing party of the Preliminary Conference date. There will be no adjournments of Preliminary Conferences without express permission from the court.**

Counsel are reminded that pursuant to 22 N.Y.C.R.R. 202.16(f)(1) Net Worth affidavits are to be filed with the court ten (10) days prior to the conference date. They are to be accompanied by the attorneys' retainer statements and the parties' recent pay-stubs or W-2 statements.

#### **COMPLIANCE CONFERENCE**

Compliance Conferences will be held on Wednesdays and Thursdays or on a date selected by the court.

The date of the Compliance Conference shall be set at the time of the Preliminary Conference. Counsel should not wait until the date of the Compliance Conference to advise the Court of any failures to comply with Preliminary Conference directives and discovery orders. Such failure should be addressed **prior** to the Compliance Conference either by motion or conference call to Chambers. Failure to **timely** comply with the Court ordered discovery may result in the imposition of sanctions and counsel fees.

#### **PRE-TRIAL CONFERENCE**

Note of Issue shall be filed prior to the pre-trial conference and in accordance with the compliance order. **At the pre-trial conference, counsel will provide the court with statements of proposed disposition, updated net worth statements with the last three years of tax returns and a child support worksheet, if applicable.** Counsel shall present all motions *in limine* at this conference.

#### **TRIAL**

The Court is to be provided with the following pursuant to Court Order but no less than thirty (30) days prior to day of trial:

1. Marked pleadings.
2. Updated statement of net worth, statement of proposed disposition and child support worksheet, if applicable.
3. A witness list, expert reports not previously filed and any pre-trial memorandum.
4. A list of all proposed exhibits.
5. A list of documents which counsel may stipulate into evidence, such documents are to be pre-marked by counsel.
6. A written copy of any issues or facts to which the parties can stipulate in the advance of trial. Said stipulation to be read into the record at the commencement of the trial.
7. Statements of proposed disposition.

Counsel are reminded that pursuant to 22 N.Y.C.R.R. 202.16(9) all expert reports are to be exchanged and filed with the Court sixty (60) days before the date set for trial. Reply reports, if any, shall be exchanged and filed no later than thirty (30) days before said date.

Sanctions and/or costs may be imposed for failure to comply with any rules set forth herein.

Once a case has been assigned a trial date, **it is presumed ready for trial.** Trials will be day to day. No consent adjournments will be accepted. Failure to proceed will result in default relief being granted or the action being dismissed. In the event the action is resolved prior to the court date, counsel are expected to notify Chambers immediately.

The Court is to be provided with duplicates of all items marked into evidence.

The Court may direct one or both parties to order the transcript and allocate the costs.

All judgments of divorce must contain a form VS 140 containing the social security number of both parties. All judgments must be submitted within 60 days or the action will be deemed abandoned and dismissed. All QDROs must be submitted within 45 days of the signing of the Judgment and must be accompanied by written plan approval.

Copies of decisions and orders will be mailed to all counsel and any self-represented litigants.

Information on whether decisions have been issued or judgments or signed orders should be obtained by telephoning the Matrimonial Clerk's Office between 9-5 p.m. or by checking the New York Law Journal.

**HON. MICHAEL L. KATZ** Part 24 ~~Matrimonial Part~~ 60 Centre Street, Room 543, New York, NY 10007  
**Principal Court Attorney:** Jessica Cygler Wagner, Esq.; (646) 386-3103; [jwagner@nycourts.gov](mailto:jwagner@nycourts.gov)  
**Part Clerk:** Shehre Yaseen (646) 386-3285

## **General Rules**

Hearings and trials are generally scheduled on Mondays, Tuesdays and Wednesdays. Conferences and motions are generally scheduled (on a staggered basis) on Thursdays and Fridays. All parties must be present at every appearance, including conferences and motions, unless otherwise directed by the court.

All adjournments require the prior approval of the court. Applications for adjournments may be made by counsel jointly contacting the Part Clerk at **(646) 386-3285** at least two (2) days prior to the scheduled court appearance.

Counsel may also jointly initiate a telephone conference with the court should an issue arise between court dates which requires court intervention. Counsel and parties should not contact the court by letter, email or fax, and should not forward to the court copies of correspondence between or among counsel and/or parties, without prior permission from the court.

Any attorney seeking to withdraw from a case where a substitute attorney has not been retained must move by order to show cause for an order to be relieved. *The court will not accept a stipulation where the litigant consents to proceeding pro se.*

## **Motions**

*To reduce the need for motion practice, counsel are encouraged to contact the court by conference call prior to filing a motion.* All motions shall be made by order to show cause unless otherwise directed by the court. All motion papers (including opposition and reply papers) shall state the motion sequence number and return date of the motion on the first page. All exhibits should be identified by tabs.

All papers shall be filed with the Part Clerk at 60 Centre Street, Room 543. Sur-replies are not accepted without prior court permission. Oral argument is required on all motions, unless otherwise directed by the Court.

### *Temporary restraining orders*

Any party bringing an order to show cause seeking a temporary restraining order or other interim relief (other than an ex-parte application for an order of protection) must first contact the Part Clerk at **(646) 386-3285** to obtain a date and time to present the order to show cause to the court. The party must then forward a copy of the unsigned order to show cause to all parties or their counsel, together with a letter notifying them of the date, time and location that the parties will be heard on the request for interim relief.

### *Orders of Protection*

Ex-parte applications for orders of protection must be accompanied by the Family Protection Registry Information Sheet and the litigant must be present. Motions to consolidate family offense proceedings pending in the Family Court must contain a complete copy of the relevant pleadings and orders (with relevant docket numbers).

## **Conferences**

### *Preliminary, compliance and status conferences*

The following documents shall be submitted at the preliminary conference: (i) each party's sworn statement of net worth; (ii) the most recently filed state and federal income tax returns; and (iii) each party's two most recent paycheck stubs. The date of the *compliance conference* shall be set at the time of the preliminary conference. All discovery shall be completed before the *final status conference*.

### *Pre-trial conferences*

Parties shall exchange and file with the court the following documents at the pre-trial conference, if any, *or at least two weeks prior to the first day of trial if there is no pre-trial conference*: (i) statement of proposed disposition; (ii) updated statement of net worth; (iii) most recently filed tax returns; (iv) witness list; and (v) exhibit list (with pre-marked exhibits).

If the trial concerns the issue of custody only and involves no financial issues, the parties shall file a proposed parenting plan instead of a statement of proposed disposition, and need not file an updated statement of net worth. Attorneys for children, if any, may file a proposed parenting plan if they wish to do so, and shall also exchange and file witness and exhibit lists.

Prior to the pre-trial conference, the parties shall attempt to execute a stipulation as to: (i) the authenticity and admissibility of exhibits; and (ii) undisputed facts.

Any pre-trial motions, including motions *in limine*, shall be filed by order to show cause at least three weeks prior to the pre-trial conference, so that they can be made returnable at the pre-trial conference.

## **Trials and Hearings**

Absent extraordinary circumstances, all trial dates are final and will not be adjourned.

As a general rule, no counsel or party will be permitted to offer a document into evidence during a witness' direct testimony unless the document was disclosed on the previously exchanged exhibit list, and no witness will be permitted to testify unless the witness was disclosed on the previously exchanged witness list.

**HON. TANYA R. KENNEDY**, Part 63 General IAS Part, 60 Centre Street, Room 321, New York, NY 10007

Part Clerk Phone: 646-386-5908 Chambers Phone: 646-386-5739

Principal Law Clerk: Harshal Y. Jani, Esq., HYJani@NYCourts.gov Assistant Law Clerk: Francesca R. Acocella, Esq., Fracocel@NYcourts.gov Part Clerk: Yolanda Baskerville, [YBaskerv@NYCourts.gov](mailto:YBaskerv@NYCourts.gov)

**Preliminary Conferences:** Wednesdays, commencing at 2:15 p.m., or as otherwise directed.

**Compliance Conferences:** Wednesdays, commencing at 2:15 p.m., or as otherwise directed.

**Oral Argument on Motions:** Wednesdays, staggered in ½ hour intervals commencing at 9:30 a.m. to 12:30 p.m., or as otherwise directed by Order to Show Cause.

**FAILURE TO APPEAR BY 3:15 PM AT ANY SCHEDULED CONFERENCE WILL BE CONSIDERED A DEFAULT. YOUR PLEADINGS MAY BE STRICKEN.**

1. Where applicable, the Commercial Part Rules will govern cases before Justice Kennedy, unless modified below.
2. All documents submitted to the Court for review or signature, whether stipulations, orders or letters, must contain on all pages, subsequent to the first, a header bearing the case name, index number and page number out of the total number of pages (ex 2 of 3).
3. Stipulations and any other documents submitted to the Court to be so-ordered must be provided in hard copy with an explanatory cover letter.
4. The Part Clerk is unable to accept deliveries between 1:00 - 2:15 p.m. or after 4:30 p.m. Any deliveries to chambers **will not** be accepted.
5. Parties are to bring copies of all prior discovery orders to each court appearance.

#### **COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS**

##### **Request for Adjournments/Extensions**

1. Adjournment requests for conferences and oral arguments should be made by contacting the Part Clerk, Yolanda Baskerville, via email at [YBaskerv@NYCourts.gov](mailto:YBaskerv@NYCourts.gov)
  - a. Requests for adjournments or extensions of time and/or page limits shall be made by letter, with notice to all parties. Such a request must: (a) be made at least two business days prior to scheduled appearance or deadline for submission; and (b) state: (i) the original date; (ii) the number of previous requests for adjournment or extension; (iii) whether prior requests were granted or denied; (iv) whether ALL other parties consent; and (v) if ALL parties consent and a request for an adjournment is being made, two proposed alternative dates.  
**There shall be no adjournments without court permission.**
  - b. A party will not be excused from a scheduled appearance without first requesting and obtaining leave from the Court.
2. Adjournment requests for matters pending in the Motion Submission Part should follow the General Procedures for New York County found at [http://www.nycourts.gov/supctmanh/motions\\_on\\_notice.htm](http://www.nycourts.gov/supctmanh/motions_on_notice.htm)
3. Adjournment requests for mediation dates in Mediation I and/or jury selection dates in Trial Part 40 should be made by contacting the appropriate part clerks. Justice Kennedy and her Part Clerk **do not** administer those calendars.
4. Do not call chambers or the Part 63 Clerk regarding adjournments in the Motion Submission Part.

##### **Verbal Communications**

**DO NOT CALL CHAMBERS REGARDING: SCHEDULING OF MATTERS; TO REQUEST ADJOURNMENTS OR TO INQUIRE AS TO THE STATUS OF A WRITTEN DECISION.**

1. All requests for conference calls must be submitted to the Principal Law Clerk or Assistant Law Clerk via e-mail.
2. Neither Justice Kennedy nor her court attorneys will speak to any litigant or attorney over the telephone regarding any matter without all parties to the action or proceeding being present.

##### **Written Correspondence**

1. All correspondence to the Court must be e-filed, and hand-delivered in hard copy to the Part 63 Clerk in the courtroom, Room 321, and sent to all parties. Faxes **will not** be accepted.
2. Correspondence to the Court should include each party recipient's email address.
3. **DO NOT WRITE LETTERS TO THE COURT UNLESS YOU**
  - (i) seek to withdraw a motion in whole or in part;
  - (ii) wish to advise the Court that a case is settled; or
  - (iii) were granted leave to write the Court at oral argument or after a consultation with the Principal Law Clerk or Assistant Law Clerk.
4. **DO NOT copy the Court on letters exchanged between counsel. The Court will not read them.**

#### **PRELIMINARY AND COMPLIANCE CONFERENCES**

**Please bring copies of all prior conference orders and stipulations to conferences. If you have any motions pending in the Motion Submission Part or Part 63, please bring this to the attention of the Part 63 Clerk and consult with the Justice's Principal Law Clerk or Assistant Law Clerk.**

### Consultation prior to Preliminary and Compliance Conferences

1. Prior to any Preliminary or Compliance Conference, Counsel for all parties shall advise the Principal Law Clerk or Assistant Law Clerk concerning (i) any resolution of the case, in whole or in part; (ii) discovery and any other issues to be discussed at the conference, including the timing and scope of expert disclosure under Commercial Division Rule 13(c); (iii) the use of Alternative Dispute Resolution to resolve all or some issues in the litigation; and (iv) any voluntary and informal exchange of information that the parties agree would aid early settlement of the case. Counsel shall make a good faith effort to reach an agreement on these matters in advance of the conference.
2. **Instructions Applicable to Preliminary Conference and Compliance Conference Orders:**
  - a. Please write legibly with a **black** ball point pen. Press hard. Illegible orders will not be signed. You must indicate the names, addresses, and telephone numbers of all counsel appearing at the conference.
  - b. Number the pages (e.g., 1 of 3, 2 of 3). Please indicate at the top of page 1 whether this is the 1st, 2nd, or 3rd Compliance Order and whether the matter has been converted to electronic filing.
  - c. If a Preliminary Conference, all items must be completed or marked "n/a" if not applicable.
  - d. Use complete dates, including the correct year. Please remember that some of the dates selected may be in the next calendar year.
  - e. Use firm cut-off dates such as "on or before December 31, 2012." Do not use "within 45 days," etc. You are assumed to have consulted your clients, examining doctors, etc. regarding their availability for EBTs, IMEs, etc. before you select the date. Select a reserve date if you have any uncertainty.
  - f. **Do not leave the courtroom** until either the Justice or one of the law clerks has reviewed your completed forms. Copies of Preliminary Conference and Compliance Conference orders will be available electronically in e-filed matters. Copies of such orders will not be scanned where cases are not converted to electronic filing.
3. Parties shall strictly comply with discovery dates set forth in all case scheduling orders. Deadlines may be modified upon the consent of all parties ONLY if all discovery shall be completed by the discovery cut-off date set forth in the Preliminary Conference order. Non-compliance may result in the imposition of an appropriate sanction against that party pursuant to CPLR 3126.
  - a. Any joint application for extension of discovery deadlines shall be submitted via e-mail to the Principal Law Clerk or Assistant Law Clerk as soon as practicable and prior to the expiration of such deadline.
4. The Note of Issue and Certificate of Readiness may not be filed until the completion of expert disclosure.

### Interrogatories

1. Interrogatories are limited to 25 in number, without subparts, unless another limit is specified in the Preliminary Conference Order. This limit is also applicable to consolidated actions.
2. Unless otherwise ordered by the Court, interrogatories are limited to the following topics: name of witnesses with knowledge of information material and necessary to the subject matter of the action; computation of each category of alleged damages; and the existence, name of custodian, location, general description of material and necessary documents, including pertinent insurance agreements, and other physical evidence.
3. During discovery, interrogatories other than those seeking information described in the above-mentioned paragraph may only be served
  - a. if all relevant parties consent, or
  - b. if ordered by the Court for good cause shown.
4. Upon the conclusion of other discovery, and at least thirty (30) days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served, unless the Court orders otherwise.

### MOTION PRACTICE

#### MOTIONS BY NOTICE OF MOTION ONLY

**ALL MOTIONS ARE TO BE FILED BY NOTICE OF MOTION, UNLESS OTHERWISE DIRECTED BY THE COURT OR INTERIM RELIEF IS BEING SOUGHT.**

1. **WORKING COPIES** of e-filed opposition and reply papers, as well as exhibits for any Orders to Show Cause (OSCs) **must** be delivered to the Part 63 courtroom, Room 321, between the hours of 9:30 a.m.-12:45 p.m. and 2:15 p.m. - 4:30 p.m. Working copies will not be accepted during the lunch recess or after 4:30 p.m. Extra copies of papers will not be accepted, and it is unnecessary to submit working copies of an OSC which Justice Kennedy signed.
  - a. All motions must include the correct motion sequence number on the front page, be properly backed, and, where necessary, include proper bottom tabs. Plaintiff or Petitioner shall use numbered exhibits ("Exhibit "1") with motion submissions; Defendant or Respondent is to use lettered exhibits ("Exhibit "A").
  - b. All submitted papers must include an e-file confirmation sheet attached to the back of the document, over the litigation back.
  - c. All motions, which include deposition transcripts, arbitration awards or hearing transcripts as exhibits, must include the entire document, including the front page, the signature page, errata sheets and court reporter signature pages. If another court renders a decision based on argument and decision on the record, the record and/or transcript must be included as an exhibit.
2. **PAGE LIMITS FOR ALL MOTIONS**

Any supporting memorandum of law, brief, affidavit or attorney affirmation may not exceed **twenty-five (25) pages** of double-spaced text in 12-point type with 1-inch margins. Reply memoranda shall be no more than **fifteen (15) pages** and **shall not** contain any arguments that do not respond or relate to those made in the memorandum in chief.

  - a. All memoranda of law must include a Table of Contents and a Table of Authorities.
  - b. All footnotes must be in 12-point font.

- c. **Affirmations submitted in support of or in response to motions must be separate from any memoranda of law. Affirmations should not include arguments of law. Counsel's "memo-affirmations" will not be considered by the Court.**

#### **Oral Argument Scheduling**

1. Motions submitted in the Motion Submission Part, Room 130 at 60 Centre Street, will then be forwarded to Part 63.
  - a. Motions submitted on default or without opposition are not generally scheduled for oral argument. No appearance will be necessary on such motions.
  - b. Other motions will be scheduled for oral argument at the discretion of Justice Kennedy (see 22 NYCRR 202.8[d]). Any request for oral argument must be indicated on the Notice of Motion. **DO NOT SEND LETTERS TO THE PART OR CHAMBERS REQUESTING ORAL ARGUMENT.** Parties will receive notification, by electronic means, if oral argument is scheduled.
  - c. Absent compelling circumstances, all parties must be present when injunctive relief is sought. The moving party must provide sufficient notice to all parties (see 22 NYCRR 202.7[f]) and the opposing party shall not intentionally delay action on the OSC for injunctive relief by not appearing before the Court.
2. **Post Oral Argument:** Following oral argument, the movant shall order the transcript and forward a hand delivered copy to the Part Clerk in Room 321. The motion(s) will be marked submitted upon receipt of the transcript.

#### **MOTIONS BY NOTICE OF MOTION**

1. **WORKING COPIES** are required to accompany all applications and motions filed electronically through NYS Courts Electronic Filing (NYSCEF). Working copies must be submitted in person in Room 130, 60 Centre Street, on the motion return date.
  - a. a motion must include the correct motion sequence number on the front page, be properly backed, and, where necessary, include proper bottom tabs. Plaintiff or Petitioner shall use numbered exhibits ("Exhibit "1") with motion submissions; Defendant or Respondent is to use lettered exhibits ("Exhibit "A").
  - b. All submitted papers must include an e-file confirmation sheet attached to the back of the document, over the litigation back.
  - c. All motion submissions which include deposition transcripts, arbitration awards or hearing transcripts as exhibits must include the entire document, including the front page, the signature page, errata sheets and court reporter signature pages. If another court renders a decision based on argument and decision on the record, the record and/or transcript must be included as an exhibit.

#### **SUMMARY JUDGMENT MOTIONS**

**No summary judgment motion shall be made prior to the filing of the Note of Issue without leave of court.**

1. If there are outstanding discovery motions pending or an order directing the exchange of discovery, a motion for summary judgment **may not** be made without arranging a telephone conference between all sides and the Court and receiving the Court's approval; otherwise, there are no conditions or restrictions to making a summary judgment motion separate and apart from any found in the CPLR.
2. **Statements of Material Facts** are required when moving for or opposing summary judgment. The proponent of a motion for summary judgment shall state the undisputed material facts with reference to appropriate documentation. The opposing party in its response shall first repeat the movant's claimed undisputed facts followed by its response including reference to appropriate documentation.
  - a. Each statement of material fact by the movant or opponent including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion.

#### **DISCOVERY MOTIONS**

**It is preferred that discovery disputes be resolved through a court conference – not through motion practice – unless otherwise directed. Pre-motion conferences must be held to permit the Court an opportunity to resolve discovery disputes before motion practice ensues, and to control its calendar in the context of discovery and trial schedules.**

1. For all discovery disputes, the parties shall outline their position in a pre-conference letter addressed to Justice Kennedy not to exceed three (3) pages (excluding exhibits).
  - a. Letter font shall be Times New Roman, 12 point.
  - b. The letter shall describe the parties' good faith effort to resolve the dispute (see Commercial Division Rule 14).
  - c. The non-moving party is to submit a rebuttal letter no later than three (3) business days after the moving letter is filed.
  - d. All submissions must be electronically filed on NYSCEF and delivered to the Part 63 Clerk in hard copy. Conferences will not be conducted until the Court receives hard copies of all submissions.
2. Parties should set forth as many discovery disputes as possible for resolution in such letter. The opposing party's letter should only address each point in the requesting party's letter.
3. The Court will schedule a telephone or in-person court conference with the parties following review of the letter. Counsel, with authority to bind their client, must be available to participate in the conference and be fully familiar with the matter.
4. If the dispute is resolved during the conference, an order consistent with such resolution will be issued or counsel will be directed to forward a letter confirming the resolution to be "so ordered." The conference may be held on the record at the discretion of the Court.
5. If the dispute is unresolved, the parties shall set a motion briefing schedule to be approved by the Court. Failure to comply with the briefing schedule, except for good cause shown, will result in submission of the motion as unopposed, with the appropriate relief granted or denied, as may be appropriate. The first page of all Notices of Motions (or OSCs as directed by the Court) shall set forth a statement of compliance with this rule.

**Failure to abide by this rule may result in a motion being held in abeyance until the Court has an opportunity to conference the matter.**

6. In the event of any outstanding discovery motion or order directing the exchange of discovery, the proposed movant of any summary judgment must first request a conference call via-email to the Principal Law Clerk or Assistant Law Clerk and receive leave of Court prior the filing of such motion.

## TRIALS

### TRIAL DATES

Unless otherwise directed, after the note of issue has been filed, the case will be assigned to Mediation I or Trial Part 40 by the General Clerk's Office. Part 63 does not maintain a separate pre-trial conference calendar.

### TRIAL RULES

1. Upon the first appearance before this Court for trial, the parties must furnish the following:
  - a. A list of proposed witnesses, including the need for any interpreters with required language and dialect;
  - b. An estimate of required trial days;
  - c. All marked pleadings and bills of particulars;
  - d. A copy of any statutory provisions in effect at the time the cause of action arose upon which any party relies;
  - e. Any notices to admit;
  - f. Copies of those portions of EBTs intended for use at trial for any purpose;
  - g. A trial memorandum, not to exceed five (5) pages, setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law;
  - h. All prior decisions in the case, including any appellate decisions; and
  - i. Two (2) business cards for each attorney.
2. Prior to the start of trial, the parties must furnish the following:
  - a. All *in limine* or other applications. All motions *in limine* must be presented in writing to the court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties. Any such motion or application must include citations to relevant authority.
3. **For jury trials:**
  - a. Proposed jury instructions and jury verdict sheets. At the commencement of trial, all counsel shall submit proposed jury charges and verdict sheets.
    - i. Proposed jury instructions are to be emailed in Word format to the court attorneys and opposing counsel simultaneously.
      1. If using PJs, please include the number and title.
      2. If an instruction requires characterization or description of the evidence or the parties' contentions, the exact requested language, together with the authority for it, must be submitted; and
    - ii. Proposed jury verdict sheets must be emailed in Word format to the court attorney and to opposing counsel simultaneously.
  - b. Parties are strongly encouraged to have the court reporter pre-mark all exhibits for identification and/or evidence if without objection;
  - c. It is **counsel's** responsibility to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street, Room 145M;
  - d. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency.
    - i. Trials are not held on Wednesdays.
    - ii. No adjournments will be granted if a witness is unavailable to testify unless the court concludes that good cause exists.
  - e. **No Communication with Jurors:** To maintain the appearance of total impartiality, once the jury has been selected, no one is to communicate in any form at any time with any juror. This includes both verbal and non-verbal communication.
  - f. **Trial Objections and Arguments:** Objections should be concise. If you believe further argument is required, ask permission to approach the bench.
  - g. **Courtroom Comments and Demeanor:**
    - i. Please remain calm and courteous always.
    - ii. All remarks should be directed to the court.
    - iii. No comments should be made to opposing counsel.
    - iv. Please do not "talk over" each other; only one person may speak at a time to make for a clear record.
  - h. **Examination of Witnesses:** 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. Do not interrupt the witness in the middle of an answer, unless it is totally unresponsive in which event you should seek a ruling from the court.

**HON. LYNN KOTLER**, Part 8, IAS General Assignment, Room 278, 80 Centre Street, New York, NY 10013, **Part Clerk/Courtroom:** (646) 386-3572, **Chambers:** (646) 386-3339, FAX: (212) 618-5212, **Principal Court Attorney:** Eric Wursthorn, Esq., [ewursth@nycourts.gov](mailto:ewursth@nycourts.gov) **Park Clerk:** Steve Carney, SCC **Email:** [scarney@nycourts.gov](mailto:scarney@nycourts.gov)

### 1. General

- a. *Ex parte* communications are not permitted. Communications regarding procedural questions and/or issues should be directed to the part clerk.
  - b. Letters or emails seeking affirmative relief will not be considered and will be rejected.
  - c. Do not carbon copy the court on correspondence between counsel.
  - d. The court will not entertain telephonic conferences regarding discovery disputes or make rulings via telephone.
- 2. Conferences**
- a. All conferences are scheduled for Tuesdays at 9:30 A.M.
  - b. Cases are called when all sides are present. Default applications will be entertained by the court at 11:00am.
- 3. Motions**
- a. All Orders to Show Cause will be heard on Tuesdays 10:00 a.m. on the return date, unless otherwise provided for by the court. If a party seeks a temporary restraint in an Order to Show Cause, they **MUST** appear with the affected adversary or provide proof that their adversary was notified about the time and place that the application will be presented for signature.
  - b. Appearances and oral argument are required on all Orders to Show Cause. All Orders to Show Cause must be first processed through the Ex Parte Motion Office.
  - c. All Notices of Motion (but not Notices of Cross Motion) are returnable in the Motion Support Office Courtroom. Adjournments of those motions are to be addressed to Motion Support, not the Part. Motions will be submitted without argument or rescheduled for oral argument on a case-by-case basis.
  - d. Advance permission to bring any motion is not required.
  - e. "Courtesy" or working copies of e-filed motions are not required and should not be delivered to the part.
  - f. Letters should not be sent to the Court concerning a motion after the motion has been marked submitted (see Rule 14(c)).
- 4. Adjournments**
- a. A court appearance may be adjourned on consent, provided all parties who have appeared in the action sign a stipulation to that effect and deliver it to court via fax, email or in-person by 2:00 p.m. the day before the appearance is scheduled. The stipulation is still subject to court approval and it must include: [1] the reason for the adjournment; [2] the date the case was last on; and [3] the date by which the Note of Issue must be filed. If there is no consent, the scheduled date must be honored and counsel must appear to make an oral application for the adjournment.
  - b. Please clear the new adjourn date with the Part Clerk before filing the stipulation.
- 5. Note of Issue**
- a. The Note of Issue may be filed and a future compliance conference dispensed with provided all parties who have appeared in the action stipulate in writing that all discovery has been completed. This stipulation must be sent to the court via fax, email or in-person by 2:00 p.m. the day before the appearance is scheduled.
- 6. Trials**
- a. Trials are scheduled to proceed day-by-day until completed.
  - b. Once a trial is assigned to Part 8, counsel are required to serve and submit the following:
    - i. marked pleadings;
    - ii. the bill of particulars;
    - iii. a witness list;
    - iv. expert disclosures;
    - v. pretrial memoranda (if applicable);
    - vi. proposed jury instructions (if applicable);
    - vii. proposed jury verdict sheet (if applicable); and
    - viii. a one paragraph summary of the parties' contentions.
  - c. Parties must have copies of exhibits for the court and for each adversary.
  - d. All parties are encouraged to have their exhibits pre-marked by the court reporter.

**HON. GERALD LBOVITS** Part 7, IAS General Assignment, Guardianship, and Asbestos Trial Part, 60 Centre Street, Room 345, New York, New York 10007, Courtroom Phone: 646-386-3746 (Part Clerk)  
 60 Centre Street fax: 212-952-2757  
**Court Attorney:** Alexandra Standish, Esq.

**I. General**

1. All the General Rules of the Justices (Local Rules) apply unless these Rules state otherwise.
2. Oral Argument on Motions: Wednesdays at 2:15 p.m. following the calendar call.
3. Post-argument Part 7 motions transferred to Justice Lebovits: The court will contact the parties. The parties may also contact the Part Clerk but not chambers.
4. All Conferences: Wednesdays at 10:00 a.m., 11:00 a.m., and noon.

**II. Communications with Chambers and the Part Clerk**

1. For all motions pending in the Submissions Part (60 Centre Street, Rm. 130), follow that Part's rules about adjournments, scheduling, and withdrawals.

2. After motions are fully submitted in the Submissions Part, they are forwarded to Justice Lebovits's Part. If oral argument is requested, the request must be indicated on the notice of motion. Do not contact chambers or the Part Clerk to request oral argument.
3. Do not call or email chambers about scheduling matters or requests for adjournments. Contact only the Part Clerk.
4. All requests for adjournment must be approved in advance. Without approval in advance, a stipulation will be rejected, and any failure to appear will be considered a default.
5. To make your request for an adjournment, call the Part Clerk (not chambers), by conference call with all counsel on the line, at least two days before the scheduled appearance. All adjournment requests must provide a reason for the request. If approved, you will receive a new date and further instructions, such as submitting a stipulation.
6. Except for emergencies, adjournments for Wednesday afternoon motions will not be given if the application is made less than 48 hours before the scheduled appearances. Otherwise, you may be defaulted for non-appearance.
7. No ex parte communications. Do not call or email chambers unless specifically instructed to do so. If instructed to call chambers about a pending matter, the call may be placed only by attorneys or pro se parties if not represented by an attorney. No law-office employees, assistants, or aides may call chambers.
8. Do not copy the court on letters exchanged between counsel.
9. Do not write letters or emails to the court unless you seek to withdraw a motion in whole or in part; wish to advise the court that a case has settled; or were granted leave to do so at oral argument.
10. If a motion has been withdrawn or the case has been settled or otherwise discontinued, notify the Part Clerk immediately and fax a stipulation executed by all affected parties.
11. Do not call the Part Clerk or chambers for a status update or to ask whether a decision has been issued. All decisions and orders are scanned and available on the internet (eCourts or SCROLL)

### **III. Appearances before the Court**

1. Attorneys appearing before Justice Lebovits must be thoroughly familiar with the case.
2. Courtroom comments and demeanor: Present your arguments cogently, calmly, and courteously. Remarks should be directed to the court, not to opposing counsel.

### **IV. Motion Instructions**

#### **A. General**

1. Part 7 is an e-filing part. Any questions about the e-filing system should be addressed to the E-Filing Office at 646-386-3610 or at [newyorkef@nycourts.gov](mailto:newyorkef@nycourts.gov).
2. Oral argument on motions are at the court's discretion. Motions with opposition will be scheduled for oral argument for an available Wednesday at 2:15 p.m.
3. Motions submitted without opposition are rarely scheduled for oral argument.
4. Motion Sequence Number: The first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper-right corner.
5. Working or courtesy copies of motion papers are required. Hard copies of motion papers must be properly filed with the Submissions Part in accordance with that Part's rules. Do not send hard copies to chambers.
6. Counsel should not submit a single .pdf file under a single document number for papers submitted on a motion. Each e-filed document must have its own, respective document number (e.g., Doc # 15, Notice of Motion; Doc #16, Attorney Affirmation; Doc #17, Affidavit; Doc #18, Exhibit A; and Doc #19, Exhibit B).
7. Exhibits: Each exhibit must be numbered. Reference to exhibits must cite the exact page within the exhibit. All exhibits electronically submitted must be described in the heading of the attached exhibit (e.g., Exhibit A, Bill of Particulars; Exhibit B, Photographs) to allow the court to ascertain what document is filed in the exhibit.
8. If any discrepancy arises between the relief sought in the notice of motion and the relief sought in the supporting papers, the notice of motion controls.
9. Once motions are fully submitted, the court will not allow any further submissions. Letters to the court after oral argument or full submission about a pending, fully submitted motion will be rejected.
10. To withdraw a motion after the motion leaves the Submissions Part, inform the Part Clerk immediately and fax a stipulation executed by all affected parties. If the motion is in the Submissions Part, follow that Part's rules to withdraw.

#### **B. Orders to Show Cause**

1. Any questions about how to e-file proposed OSCs should be directed to the Ex Parte Office at 646-386-3125.
2. All parties must submit to the Part Clerk in the courtroom, room 731, hard copies of motion papers filed with an OSC.
3. Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary or prove that the adversary was notified but declined to appear when the application is presented for signature.
4. OSCs are returnable in the Part. Responsive papers to OSCs must be delivered to the courtroom at least four days before the return date unless the court indicates otherwise.
5. Absent an emergency, OSCs may not be adjourned.

#### **C. Motions to Renew/Reargue**

All motions to renew or reargue must contain the papers submitted on the original motion and a copy of the court's original decision. No oral argument on these motions will be entertained.

#### **D. Disclosure Motions**

Disclosure motions are strongly discouraged. If a disclosure dispute arises, a party may, instead of filing a motion, request an expedited conference by calling the Part Clerk. Conferences requested on an expedited basis will be granted only at the court's discretion. If a party has made a formal disclosure motion, a conference will be scheduled for the same date as oral argument and will be conducted before counsel is heard on the motion.

#### **E. Summary-Judgment Motions**

Summary-judgment motions must be made no later than 60 days after filing the note of issue. Counsel's affirmation in support must include the note of issue filing date. Disclosure must continue while a CPLR 3212 motion is pending.

#### **F. Note of Issue**

If all parties agree before the final compliance conference that disclosure is complete, the final conference may be avoided by e-filing or faxing a stipulation to the Part Clerk at least two days before the scheduled conference. The stipulation must certify that all disclosure is complete and provide for the filing of the note of issue.

### **V. Conferences**

#### **A. General**

1. Counsel attending the conference are expected to be familiar with the case and have authority to discuss and stipulate to resolve all disclosure issues.
2. At each compliance conference, counsel must bring a list of all disclosure already ordered but not yet completed as well as new disclosure requested that could not have been addressed earlier. Failure to address all outstanding disclosure existing at the time of the compliance conference may be deemed a waiver of the right to obtain that disclosure.
3. Bring all conference orders and stipulations to the conferences.
4. Counsel are assumed to have consulted clients, examining doctors, etc., regarding their availability for EBTs, IMEs, etc.
5. Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading stricken. A motion to vacate a default must fulfill the requirements of CPLR 5015.

#### **B. Conference Orders**

1. Please write legibly and press hard. Names, addresses, and telephone numbers of all counsel appearing at the conference must be indicated.
2. In a Preliminary Conference form, all items must be completed or marked "n/a" if not applicable.
3. Use firm cut-off dates, such as "on or before December 31, 2015." Do not use "within 45 days," etc. Counsel will be held to the dates to which they commit.
4. Non-specific statements such as "all discovery not yet provided" or "unless otherwise provided" or "to the extent not yet provided" will not preserve any rights. Each attorney is expected to know what has and has not been provided.
5. Counsel are free to photograph a stipulation or order on their cell phone, although all orders will be scanned and available on eCourts and/or SCROLL.
6. Do not leave the courtroom until either the Justice or his Court Attorney reviews your completed forms.
7. You may leave the courtroom once the Court Attorney has reviewed the proposed order/stipulation, but it is preferable that you wait in the courtroom for a signed copy of the order.
8. This Part requires compliance with court-ordered deadlines set forth in the preliminary/compliance/status conference order(s). Failure to adhere to deadlines or to comply with orders may result in penalties.

### **VI. Trials**

#### **A. General**

1. Upon the first appearance before this court, the parties must furnish a list of proposed witnesses, including the need for any interpreters with the required language and dialect; an estimate of required trial days; all marked pleadings and bills of particulars; all decisions in the case, including any appellate decisions; any notices to admit; copies of those portions of EBTs intended for use at trial for any purpose; a trial memorandum not to exceed five pages briefly setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law; and two business cards for each attorney.
2. Before the start of trial, the parties must furnish all *in limine* or other applications. All motions *in limine* must be presented in writing to the court as soon as practicable or as specifically scheduled at any pretrial conference, with a copy to all parties. Any motion or application must include citations to relevant authority.
3. Parties are strongly encouraged to have the court stenographer premark all exhibits for identification or evidence if without objection.
4. It is the duty of counsel, not court personnel, to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.
5. Trial dates scheduled by the court are firm and may be adjourned only upon application based upon an emergency. Trials are held every day except Wednesday. No adjournments will be granted if a witness is unavailable to testify unless the court concludes, in rare instances, that good cause exists.

#### **B. Jury Trials**

1. Proposed jury instructions: If the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI section numbers suffice. If a PJI instruction is not verbatim or requires characterizing or describing the evidence or the parties' contentions, or if the language is not based on the PJI, the exact requested language, together with the authority for it, must be submitted in Word to Ms. Standish at [astandis@nycourts.gov](mailto:astandis@nycourts.gov) and to opposing counsel simultaneously.
2. Proposed jury verdict sheets must be submitted in Word to Ms. Standish at [astandis@nycourts.gov](mailto:astandis@nycourts.gov) and to opposing counsel simultaneously.

#### **VII. Guardianships**

1. All communications must be made to Ms. Standish at [astandis@nycourts.gov](mailto:astandis@nycourts.gov). Do not call chambers except for emergencies.

**HON. DORIS LING-COHAN** Part 36, IAS General Assignment Part, Room 428, Phone: 646-386-3733

#### **PART 36 General Procedural Information:**

Only admitted attorneys familiar with the case may appear on matters before the Court.

**Motions:** All motions (except orders to show cause) shall be made returnable to: Motion Submission Part Courtroom, Room 130, 60 Centre Street. Oral argument will be scheduled at the Court's discretion, and will generally be held on Tuesday and Wednesday mornings at 9:30 a.m., Room 428 at 60 Centre Street, unless otherwise directed, by the Court. Parties will be notified, should oral argument be required.

**Adjournments:** shall be by stipulation, with Court approval, not to exceed one month, and must be requested by the parties at least two (2) days prior to the return/argument date; stipulation to be submitted to the Part Clerk, at 60 Centre Street, Room 428.

Once a motion is fully submitted in the Motion Submission Part Courtroom, the Court will not accept additional papers, unless by stipulation of the parties.

#### **Motion Guidelines:**

1. Any references to EBT testimony shall cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions"; full transcripts shall be supplied.
2. Protruding exhibit tabs shall be used to reference all exhibits.
3. On motions to renew and reargue, a separate appendix containing the original motion, and all papers submitted, with a copy of the Court's decision shall be provided. The appendix shall contain protruding exhibit tabs, as was originally provided to the Court. Such appendix shall be labeled "Appendix Containing Decision, Original Motion Papers".
4. Plastic covers shall not be provided to the Court.
5. Courtesy copies shall not be provided, unless directed by the Court.
6. Counsel is requested to ensure that any staples are not protruding.

**Discovery Issues:** Prior to filing a discovery related motion, if still unable to resolve discovery issues after efforts have been made as required by 22 NYCRR §202.7(a), parties are encouraged to write a letter to the Court, with a copy to opposing counsel, requesting a conference, if a regularly scheduled conference is not imminent. In addition, all discovery issues shall be brought to the Court's attention at regularly scheduled discovery compliance conferences, or shall be considered waived.

**Discovery Conferences:** Discovery Compliance Conferences are generally held on Thursdays (unless notified otherwise), in Room 428 at 60 Centre Street, on a staggered schedule, beginning at 9:30 a.m. Counsel appearing shall be prepared to discuss all outstanding discovery issues, as well as the facts of the case and settlement options. Parties shall advise the Court of any pending motions, and if any party is self-represented. There shall be no adjournments, unless by written stipulation, with Court approval; such stipulation shall be received at least two (2) days prior to the scheduled conference, to be delivered/mailed to: Part 36 Clerk, Room 428, 60 Centre Street, N.Y., N.Y. 10007. When a note of issue is filed, counsel shall send a courtesy copy to the Part 36 Clerk.

**Dispositive Motions:** Dispositive motions shall be filed within 60 days of filing a note of issue. The filing of a motion for summary judgment will not stay the discovery process, nor mediation.

**Facsimiles:** The Court does **not** accept faxes, unless prior permission has been received from the Court. Any fax received without prior Court permission will not be considered.

**Letters:** Do not send letters to the Court in triplicate (i.e. via regular mail, fax and hand delivery); please choose one delivery method when sending a letter to the Court.

**Conference Calls:** To the extent possible, please arrange conference calls between 3 and 3:30 p.m., unless otherwise directed by the Court

**HON. JOAN A. MADDEN** Part 11, Medical Malpractice Part, Room 351, Phone: 646-386-3314

**Motions:** Thurs., 9:30 AM **Conferences:** Thurs., 9:30 AM

**HON. ALAN C. MARIN** Part 34, IAS General Assignment Part, Room 308, 80 Centre Street  
Senior Law Clerk, **Esther T. Fernando, Esq.**, [etfernan@nycourts.gov](mailto:etfernan@nycourts.gov) Assistant Law Clerk, Ashley R. Hawes, Esq.  
[arhawes@nycourts.gov](mailto:arhawes@nycourts.gov)

Part Clerk, **David Fernandez**, [ddfernan@nycourts.gov](mailto:ddfernan@nycourts.gov)  
[Courtroom/Part Clerk phone: 646-386-4370]

All Motions will be orally argued: Thursdays at 9:30 a.m.  
Conferences: Thursdays at 2:15 p.m., unless otherwise scheduled

Please refer to the Rules of the Justices ([nycourts.gov/supctmanh/uniform\\_rules](http://nycourts.gov/supctmanh/uniform_rules))

**HON. MANUEL J. MENDEZ** IAS PART 13-NYCAL COORDINATING JUDGE MOTION AND TRIAL PART RULES  
71 Thomas Street, Room 209, New York, N.Y. 10013 (646)386- 3736 Fax#: (212) 884-8975

MOTIONS :

**A- IAS Part 13 is a PURE PAPERLESS PART for e-filed cases. Motions in e-filed cases do not require the submission of working copies (hard copies) unless they are specifically requested by the Court. However, a hard copy of the Order to Show Cause is required for Justice Mendez's signature; working copies of the affirmation/supporting papers on Orders to Show Cause are not necessary. In all hard-copy cases (those not in the NYSCEF system), all documents shall be submitted as hard-copy originals. No courtesy hard copies need be submitted.**

1) Motions for Summary Judgment, to Dismiss, for Admission Pro Hac Vice, for Open Commissions and to Consolidate cases for trial shall be made to the NYCAL Coordinating Judge.

2) Motions on cases before a trial judge - where the parties are selecting a jury or on trial-(i.e., Motions in Limine and to Quash Subpoenas) shall be made to the assigned trial judge.

3) Motions on Notice shall be submitted to the NYCAL Coordinating Judge through the Motions Submissions Part located at 60 Centre Street, Room 130. If any expedited relief is requested the motion may be made by order to show cause through the Ex-Parte office in Room 315.

4) The party or parties opposing a motion on Notice shall file their opposition papers to the motion in the Motion Submissions Part, located at 60 Centre Street, Room 130. Any Reply papers shall also be submitted through Room 130. There will NOT be a further submission calendar in the NYCAL Coordinating Judge's Part.

5) Failure to submit opposition to a motion pending in the Motion Submissions Part located at 60 Centre Street, Room 130 shall result in the motion being submitted and forwarded to the NYCAL Coordinating Judge's Part marked "FULLY SUBMITTED NO OPPOSITION" (FSN).

6) Motions marked "FULLY SUBMITTED NO OPPOSITION"(FSN) will NOT be scheduled for oral argument in the Coordinating Judge's Part, and will be decided without opposition or on default.

7) Motions marked "FULLY SUBMITTED"(FS)- that is motions where a party or parties have submitted opposition to the motion- will be scheduled for oral argument in the Coordinating Judge's Part. The parties will be informed through E-Track of the date and time to appear for oral argument.

8) Motions in the Coordinating Judge's Part will be scheduled for oral argument on Wednesdays at 9:30 A.M.

B- ADJOURNMENTS OF MOTIONS, STIPULATIONS AND WITHDRAWALS:

1) Requests for Adjournment of motions scheduled for oral argument shall be made by contacting the Part 13 Courtroom Clerk to OBTAIN A DATE OR DATES CONVENIENT TO THE COURT FOR THE ADJOURNMENT. THE REQUESTING PARTY SHALL THEN CONFER WITH OPPOSING COUNSEL AND OBTAIN FROM THEM AGREEMENT ON AN ADJOURNMENT DATE. Phone number to Part 13 Courtroom is 646-386-3736.

2) The parties shall submit a stipulation to the Court, signed by all interested parties, memorializing the adjournment. The stipulation must be hand delivered or sent via fax. The fax number to Part 13 is (212)884-8975.

3) The stipulation must be delivered to the Courtroom Clerk in the NYCAL Coordinating Judge's Part, and all requests for adjournments must be made by 5:00 P.M. at least two (2) days before the date set by the Court for oral arguments (that is the Monday before the argument date).

DO NOT CALL CHAMBERS REGARDING REQUESTS FOR ADJOURNMENTS OF MOTIONS. Such calls should be directed to the Part 13 Courtroom Clerk.

4) The parties are directed to inform the Motion Submissions Part (Room 130) in writing if a motion made on Notice is withdrawn, to avoid having the motion decided by the court without opposition or on default.

5) Requests for adjournments in the Motion Submissions Part (Room 130) must be made in accordance with the Motions Submissions Part Rules. Parties are directed to contact the Motion Submissions Part Clerk for such information.

6) The parties are directed to inform the Coordinating Judge's Courtroom Clerk in writing if a motion scheduled for oral argument is withdrawn, to avoid having the motion decided by the court without opposition or on default.

C- ORAL ARGUMENTS:

1) The Calendar call for oral argument on all motions shall be on Wednesday at 9:30 A.M., until further notice.

2) Failure to appear for Oral Argument by 11:00 A.M. may result in one of the following:

(a) If by the moving party, the motion decided as denied for failure of the movant to appear;

(b) If by the opposing party, the motion decided on default;

THE PARTIES MAY AGREE, BY STIPULATION DELIVERED TO THE COURT AT THE CALENDAR CALL OR SOONER, TO HAVE THE MOTION MARKED "SUBMITTED" AND DECIDED WITHOUT ORAL ARGUMENT.

D- PAPERS:

1) There shall be moving papers, opposition and if the motion is made on notice, a Reply. THERE SHALL BE NO SUR-REPLY unless specifically directed by the court.

2) Motion papers should be no more than twenty five (25) pages in length, NOT COUNTING EXHIBITS, and use no less than 12 point font.

3) The NYCAL Coordinating Judge's Part ( Part 13) is an E-file paperless Part; however, in the spirit of the CMO, hard copies of motion papers and exhibits may be submitted to the Part on the date scheduled for oral argument of the motion on cases originally E-filed. Alternatively, the parties may provide the Part with a letter identifying the Motion Sequence Number and the NYSCEF docket # for E-filed documents relevant to the motion.

4) On all non-E-filed cases HARD COPIES OF PAPERS shall always be submitted through the motion submissions Part ( Room 130) at 60 Centre Street, on motions made on Notice, and to the Part on motions made by Order to Show Cause.

E- DECISIONS:

1) Courtesy copies of decisions on non-E-filed cases will be mailed to the moving party.

2) Decisions on E-filed cases will be scanned and uploaded to the NYSCEF server.

IF A CASE HAS SETTLED WHILE A MOTION IS SUB JUDICE PLEASE INFORM THE PART 13 COURTROOM CLERK IMMEDIATELY. NOTE THAT SETTLED CASES ARE NOT REMOVED FROM THE COORDINATING JUDGE'S PART CALENDAR UNTIL THE PLAINTIFF PROVIDES A LETTER TO THE PART INFORMING THE COURT THAT THE CASE HAS SETTLED.

A- TRIALS:

THE COORDINATING JUDGE'S PART SHALL BE THE CENTRAL TRIAL ASSIGNMENT PART FOR ALL NYCAL CASES.

B- REQUESTS FOR JUDICIAL INTERVENTION (RJI) AND NOTES OF ISSUE:

1) Plaintiff must file an RJI and a Note of Issue in every case listed in a trial cluster in order for a case to be scheduled for trial.

2) Plaintiff shall provide the Special Master proof of purchase of an index number at the time an application is made for In-extremis status.

3) Plaintiff shall file a Note of Issue only after the Special Master certifies that ALL substantial discovery milestones necessary for the prosecution and/or defense of the action are complete.

4) A case shall be included in a trial cluster only after all discovery, as certified by the Special Master, is complete and a Note of Issue has been filed.

5) Summary judgment motions shall be made within 45 days from the date of filing of the NOTE OF ISSUE.

C- PRE-TRIAL CONFERENCES:

1) All cases in a trial cluster are to be referred to the Coordinating Judge's Part.

2) A Pre-trial conference shall take place in the Coordinating Judge's Part. The court will notify the parties by posting on E-track and SCROLL the date and time when the parties are to appear.

3) Conferences shall be on Wednesday at 2:15 P.M. until further notice.

4) Attorneys attending Pre-trial conferences must be fully familiar with the case.

5) The plaintiff shall inform the court at the Pre-trial conference if a motion to consolidate will be made. A consolidation motion schedule will be established at the Pre-trial conference. Defendants shall make one combined opposition to plaintiff's motion to consolidate. NO REPLIES ARE PERMITTED. NO ORAL ARGUMENT IS NECESSARY. If a consolidation motion is not necessary the court will inform the parties of a date to appear for a final settlement conference.

**D- CONSOLIDATION OF CASES:**

The decision on the consolidation motion will establish the order in which trials are consolidated. The decision will also inform the parties of the date and time to appear for a final settlement conference.

**E- FINAL SETTLEMENT CONFERENCE:**

1) The court will schedule trial ready cases for a final settlement conference.

2) Cases that do not settle at the final settlement conference will be given a date for jury selection and trial.

**F- TRIAL ASSIGNMENT :**

1) There will be a Trial Ready calendar call in the Coordinating Judge's Part.

2) The court will notify the parties at least one week in advance, by posting on E-track and SCROLL, the date and time the parties are to appear for jury selection and trial.

3) The coordinating Judge's Part will refer all trial ready cases for trial to the available trial judges.

4) Cases shall be assigned for trial taking into consideration whether a plaintiff is living or deceased and the date of the cluster. Oldest living cases ("in Extremis" and "FIFO") will be given first priority.

5) Counsel for plaintiff shall notify all defendants and the court within ten (10) days of learning of the death of a plaintiff whose case has been included in a trial cluster.

6) Motions in Limine shall be made to the trial judge no later than one (1) week after jury selection begins. Defendants' arguments shall be contained in one joint Motion in Limine. Opposition shall be filed with the trial judge within one (1) week of the motion. THERE SHALL BE NO REPLY unless PERMISSION to submit a reply is granted by the trial judge. JURY SELECTION BEGINS WHEN THE PARTIES ARE REFERRED TO PART 40 FOR JURY SELECTION.

**MISCELLANEOUS:**

ALL ORDERS TO BE SIGNED BY THE COURT ( NO OPP SUMMARY JUDGMENT, STIPULATIONS OF DISCONTINUANCE OF INDIVIDUAL DEFENDANTS, ORDERS FOR RELEASE OF MEDICAL RECORDS AND PATHOLOGY REPORTS, COMPROMISE ORDERS, ETC) SHALL BE SUBMITTED THROUGH THE PART 13 COURTROOM CLERK ONLY ON TUESDAYS FROM 10 A.M. TO 4:30 P.M.

CASES ASSIGNED A FIRM TRIAL DATE ( NOT CONTROL DATE) PRIOR TO THE EFFECTIVE DATE OF THIS ORDER WILL MAINTAIN THE ASSIGNED DATE.

THESE RULES SHALL TAKE EFFECT JUNE 25, 2018.

**HON. MANUEL J. MENDEZ** Part 13, IAS General Assignment and Asbestos Coordinating Part, Room 210, 71 Thomas Street, New York, NY 10013, Phone 646-386-3736, Fax #: (212) 884-8975; Chambers Room 209, 71 Thomas Street, New York, NY 10013, Phone 646-386-5705

**Law Clerks:** Martha Cappelluti-Tessler, Esq. Anthony Orlich, Esq.  
**Part 13 Clerk:** Kathy Quammie

**Calendar Call:** 9:30 a.m. calendar call, attorneys to check in on arrival.

**Preliminary Conferences:** Wednesdays, commencing at 9:30 a.m., or as otherwise directed.

**Compliance Conferences:** Wednesdays, commencing at 9:30 a.m., or as otherwise directed

**Oral Arguments on Motions:** Wednesdays, commencing at 9:30 a.m., or as otherwise directed

Part 13 is a PURE PAPERLESS PART for e-filed cases. All e-filed documents must be text-searchable. Bookmarks are strongly encouraged. Motions in e-filed cases do not require the submission of working copies (hard copies), unless they are specifically requested by the Court. A hard copy of the Order to Show Cause is required for Justice Mendez's signature; working copies of the affirmation/supporting papers on Orders to Show Cause are not necessary. In e-filed cases, self-represented parties, as well as attorneys who have opted out of e-filing, shall submit their papers in hard-copy form.

In all hard-copy cases (those not in the NYSCEF system), all documents shall be submitted as hard-copy originals. No courtesy hard copies need be submitted.

**FAILURE TO APPEAR BY 11:00 AM AT ANY SCHEDULED CONFERENCE WILL BE CONSIDERED A DEFAULT. YOUR PLEADINGS MAY BE STRICKEN.**

**FAILURE TO APPEAR FOR ORAL ARGUMENT BY 11:00 AM MAY RESULT IN A DEFAULT.**

**1. COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS:**

**DO NOT CALL CHAMBERS REGARDING SCHEDULING MATTERS AND REQUESTS FOR CONFERENCE ADJOURNMENTS.**  
Any such calls will simply result in your being directed to the part clerk.

Adjournment requests for oral arguments scheduled should be made by contacting Kathy Quammie, the Courtroom/Part Clerk at 646-386-3736.

Adjournment requests for mediation dates in Mediation I and/or jury selection dates in the Trial Assignment Part, or J-Med, Part 40, should be made by contacting the appropriate part clerks. Justice Mendez and his Part Clerk do **not** administer those calendars.

Cases that have been settled require the filing of a Stipulation of Settlement and Discontinuance with the County Clerk's Office and a copy (can be faxed) to Kathy Quammie, the Courtroom/Part Clerk.

**NO EX PARTE COMMUNICATIONS.**

**2. MOTION PRACTICE:**

A. **Motion Papers:** Motion papers including the combined affirmation and memorandum of law, should be no more than **twenty (20) pages in length**. See order re submissions in e-filed and hard-copy cases.

B. **Oral Argument**

i. **Scheduling:** After motions are fully submitted in the Submission Part, Room 130 at 60 Centre Street, they are forwarded to the IAS Part 13. Motions submitted on default or with no opposition are not generally scheduled for oral argument. All other motions will be scheduled for oral argument. **DO NOT SEND COURTESY COPIES OF ANY MOTION PAPERS, AFFIRMATIONS OR RELATED DOCUMENTS DIRECTLY TO IAS PART 13 UNLESS DIRECTED TO DO SO BY THE COURT. DO NOT SEND LETTERS TO THE PART OR CHAMBERS FOR ANY REASON INCLUDING REQUESTING ORAL ARGUMENT.** If oral argument is scheduled you will be so notified.

ii. **Adjournments:** TO ADJOURN ORAL ARGUMENT ON A MOTION, THE PARTIES NEED TO SUBMIT A WRITTEN STIPULATION OF ADJOURNMENT TO IAS PART 13 **NO LATER THAN 5:00P.M. OF THE MONDAY BEFORE THE ORAL ARGUMENT DATE.** ALL PARTIES SHOULD ARRANGE A CONFERENCE CALL WITH KATHY QUAMMIE, THE IAS PART 13 CLERK, **BEFORE** PREPARING OR SUBMITTING A STIPULATION TO ASCERTAIN AVAILABLE ADJOURN DATES AND OBTAIN DIRECTIONS FOR SUBMISSIONS OF THE STIPULATION. THE PARTIES ARE REMINDED OF THE IMPORTANCE OF COURTESY AND COOPERATION WITH EACH OTHER AND THE IAS PART 13 CLERK.

iii. **Settlement Authority:** Parties appearing on dispositive motions should have settlement authority.

C. **DO NOT COPY THE COURT ON LETTERS OR DOCUMENTS EXCHANGED BETWEEN COUNSEL.** The court will not read them. They will be discarded unread by the IAS Part 13 Clerk without being shown to the Court.

D. If a case has settled while a motion is sub judice, **PLEASE ADVISE THE IAS PART 13 CLERK IMMEDIATELY! NOTE: SETTLED CASES ARE NOT REMOVED FROM THE IAS PART 13 CALENDAR UNTIL A STIPULATION OF SETTLEMENT OR DISCONTINUANCE IS FILED WITH THE COURT. ADJOURNMENTS WITH CONTROL DATES FOR SETTLEMENT PAPERS REQUIRE THE PARTIES TO ADVISE THE COURT IF A FURTHER ADJOURNMENT IS NEEDED, FAILURE TO DO SO MAY RESULT IN SANCTIONS FOR NON-APPEARING PARTIES.**

E. **SEND NOTHING TO CHAMBERS, UNLESS PREVIOUSLY DIRECTED TO DO SO BY THE COURT.** Stipulations, papers, etc. should be filed or delivered to the appropriate Clerk. The appropriate Clerk accepts documents for filing, not chambers or the IAS Part 13 clerk.

F. Courtesy copies of non-e-filed decisions will be mailed. Decisions on e-filed cases are also scanned and posted on the internet.

G. **DO NOT CALL CHAMBERS OR THE PART 13 CLERK TO DETERMINE WHETHER A DECISION HAS BEEN RENDERED, ADVISE ON MOTION PRACTICE, OR FOR DIRECTORY INFORMATION.** This information is easily available through the Supreme Court Records On-Line Library (SCROLL), NYSEF, the General Clerk's Office and on nycourts.gov.

H. Parties are advised that the Court adheres to the following rule(s):

i. CPLR §3212 Summary Judgment motions are to be made and filed within 120 days of the filing of the Note of Issue. Absent good cause for the late filing, a late motion will be summarily denied, even if the adversary has failed to raise the 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.

**I. NO SUR-REPLIES.**

**3. PRELIMINARY AND COMPLIANCE CONFERENCES:**

**A. Scheduling:**

i. **Preliminary Conferences** - may be scheduled pursuant to an RJJ or a motion. Alternatively, any party in a case which has an RJJ that was already filed, may simply contact the trial support clerk in the General Clerk's Office which will schedule one for the first available date.

ii. **Compliance Conferences** - May be scheduled pursuant to a prior discovery order, a decision on a motion, or by the parties contacting IAS Part 13 via conference call. **ALL PARTIES MUST BE ON THE CONFERENCE CALL.** A date will be scheduled as soon as practicable. **DO NOT CONTACT CHAMBERS.**

**B. Prior Orders or Stipulations:** Please bring copies of all prior conference orders and stipulations to conferences, this includes transcripts of those Orders placed on the record. If you have any motions pending in the Motions Submission Part, or which are sub judice, please bring this to the attention of the Part 13 Clerk and consult with the Justice's Law Clerk.

**C. Authority:** Attorneys attending conferences must have authority to bind the party on all issues. Appearances by counsel without authority may be deemed a default.

**D. Instructions Applicable to Preliminary Conference Orders.**

**E. PRELIMINARY CONFERENCE ORDERS:**

i. Please write legibly with black or blue ball point ink. Press hard. Illegible orders will not be signed. You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.

ii. Please number the pages (e.g. 1 of 3, 2 of 3, etc.). All items on a Preliminary Conference form must be completed or marked "n/a" if not applicable.

iii. Use complete dates, including the correct year. Please remember that some of the dates you are selecting may be in the next calendar year.

iv. Use firm cut-off dates such as "on or before December 31, 2010." ***Do not use***, "within 45 days, etc." You are assumed to have consulted with your clients, examining doctors, etc. regarding their availability for EBT's, IME's, etc. before you pick the date. Pick a reserve date if you have uncertainty.

v. Consult with the Justice's Law Clerk if you have any issues that cannot be resolved amicably. The Law Clerk will serve as a referee to resolve disputes.

vi. Caption: IAS Part 13, Justice Manuel J. Mendez.

vii. DCM Track: Any dispute concerning the track assigned to the case (Expedited, Standard, Complex) should be brought to the attention of the Law Clerk.

viii. Appearances: Please provide legibly, your phone number and address in addition to your name.

**PRELIMINARY CONFERENCE FORM:**

Item 1 - (Insurance Coverage): Select a date for insurance information to be provided, not later than 21 days from today's date. As set forth above, for this, and all items requiring a cut off date, use an actual date such as, "on or before December 31, 2010." Do not use, "within 45 days," etc.

Item 2 - (Bill of Particulars): Select an actual date for the demand to be served that is within 30 days of today's date and then the bill of particulars shall be served as per the CPLR.

Item 3 - (Medical Records/Authorizations): Select an actual date by which authorizations shall be served make sure that the date is within 30 days of today's date. Medical records shall be served within 45 days of today's date.

Item 4 - (Physical Examination): Exams shall be held within 45 days of the deposition. A copy of the physician's report shall be furnished to the plaintiff within 45 days of the physical examination.

Item 5 - (Depositions): The court will assume you have consulted a calendar and clients when scheduling depositions. Designate a time and place for depositions and be as specific as possible regarding whom you will produce. You must also select an actual end date after which the right to depositions may be deemed waived. This end date for depositions must be within four (4) months of

today's date.

Item 6: Exchange of delineated items to occur within 21 days of today's date.

Item 7 - (End date for Disclosure): Select a date not later than six (6) months from today's date. If a party is more than 70 years of age, select a date not later than four (4) months from today's date.

Item 8 - (Impleader): Select a date not later than 60 days after your last scheduled party deposition.

Item 9 - (Compliance Conference): Pick a Wednesday date not later than three (3) months from today's date. Please verify with the Clerk that this is an available Wednesday.

Item 10 - (Dispositive Motions): "Summary judgment motions must be filed within 120 days of the filing of the note of issue." The court uses filing to measure the timeliness of dispositive motions, so be advised that this may give you slightly less than 120 days to file.

Item 11 - (Note of Issue): Select a date not later than sixty (60) days after the date selected for the end date of disclosure in Item 7.

Additional Directives: counsel should indicate that they have received a copy of the Part 13 rules.

#### **F. COMPLIANCE CONFERENCE and STATUS CONFERENCE ORDERS:**

- i. Compliance Conference and Status Conference Orders will be prepared by Justice Mendez or his Law Clerk. Please bring copies of all prior conference orders and stipulations to conferences, this includes transcripts of those Orders placed on the record.
- ii. Attorneys attending conferences must have authority to bind the party on all issues. Appearances by counsel without authority or knowledge concerning the status of discovery may be deemed a default.
- iii. The Court reserves the right to include the following relevant language:

"The parties have been advised that the dates contained herein will be strictly enforced and that failure to comply with this Court's Order(s) will result in the imposition of any appropriate sanction, including, but not limited to, monetary costs and sanctions, issue or defense preclusion, witness preclusion, and /or the complete or partial striking of a pleading."

#### **G. TRIAL DATES:**

Unless otherwise directed, after the note of issue has been filed, the case will be assigned to Mediation I or Trial Part 40 by the Trial Support Office. Part 13 does not maintain a separate pre-trial conference calendar.

#### **H. TRIAL RULES:**

1.) Counsel shall furnish the Court with copies of:

- A.) Marked Pleadings as required by CPLR §4012;
- B.) A copy of any statutory provisions in effect at the time the cause of action arose upon which either the plaintiff or defendant relies;
- C.) The Bill(s) of Particulars
- D.) If any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination), you must, well in advance, provide the Court and your adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury.

2.) **No Communication with Jurors:** In order to maintain the appearance of total impartiality, once the jury has been selected no one is to communicate in any form at any time with any juror. This includes both verbal and non-verbal communication, including, without limitations, nods, shrugs and shaking the head. Do not even say "hello" or "good morning."

3.) **Trial Objections and Arguments:** If a lawyer wishes to make an objection, it can be accomplished by standing and saying the word, "objection", and by adding thereto up to three or more words so as to state the generic grounds for the objections, such as "hearsay," "bolstering," "leading," or "asked and answered." If you believe further argument is required, ask permission to approach the bench. This request will almost always be granted. Keep in mind that you will always be given the opportunity to make a full record.

4.) **Courtroom Comments and Demeanor:** All remarks should be directed to the Court. Comments should not be made to opposing counsel. Personal remarks, including name-calling and insults, to or about opposing counsel will not be tolerated. Remember do not try to "talk over" each other; only one person speaks at a time or the record of the proceeding will be incomprehensible. Simple requests (e.g. a request for a document or an exhibit), should be accomplished in a manner which does not disrupt the proceedings or your adversary, such as a possible stipulation, ask for permission to approach the bench. I will grant that request, and you will

have a chance to talk to each other outside the presence of the jury. In addition, no grandstanding in the presence of the jury i.e., making demands, offers or statements that should properly be made outside the presence of the jury.

5.) Examination of Witnesses: 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. Do not interrupt the witness in the middle of an answer, unless it's totally unresponsive in which event you should seek a ruling from the Court. Direct examination, cross, redirect and re-cross are permitted. However, the Court does not ordinarily permit re-redirect examination of a witness.

6.) Jury Charge and Verdict Sheet: At the commencement of the trial all counsel shall submit suggested jury charges and a suggested verdict questionnaire. Amendments thereto shall be permitted at the final charging conference. If counsel relies on a Pattern Jury Instruction [PJI] without any charge thereto, it should be referred to by PJI number and topic only. If any changes to the PJI are suggested, then the entire proposed charge should be set forth and the changes should be highlighted or otherwise called to the Court's attention. Citations to appropriate statutory or common law authority shall be given in support of suggested non-PJI jury charges or suggested PJI modifications. In addition, unless a marshaling of the evidence is waived, Counsel should at the final charging conference, provide the Court with the proposed facts which counsel believes should be marshaled by the Court; and the respective contentions of the parties.

**HON. FRANK P. NERVO** Part 4, IAS General Assignment Part, Room 327, 80 Centre St., New York, NY 10013 646-386-3580

**HON. LOUIS L. NOCK**, Part 38, IAS General Assignment Part, Courtroom 1166, 111 Centre Street, New York, NY 10013

**Part Clerk**: Ms. Renee Woody

**Courtroom Phone**: (646) 386-3235

**Principal Court Attorney**: Laurie K. Furdyna, Esq.

**Chambers Phone**: (646) 386-3206

**Oral Argument on Motions**: Thursdays at 9:30 a.m. (or as otherwise scheduled by the Court)

**Preliminary, Compliance, and Status Conference**: Thursdays at 2:15 p.m.

**Pre-Trial and Settlement Conferences**: As scheduled by the Court

#### General

1. References to the "parties" in these rules means both unrepresented parties and counsel for represented parties.
2. All parties must familiarize themselves with these Practice Rules and the Rules of the Justices of the Supreme Court, Civil Branch, New York County.
3. Parties are advised that Justice Nock, his Court Attorney, and Park Clerk will not engage in any *ex parte* communications.
4. Do not copy the Court on letters between the parties unless specifically instructed by the Court to do so.
5. Parties must immediately notify the Part Clerk of the settlement or resolution of any active case or pending motion.
6. Documents requiring Justice Nock's signature, including proposed orders and stipulations (e.g., proposed or settled orders, stipulations, or transcripts to be "so-ordered"), must be electronically filed and a hard copy must be sent to Part 38 by mail, Federal Express, or hand delivery.

#### Adjournments

1. DO NOT CALL CHAMBERS SEEKING AN ADJOURNMENT.
2. Requests to adjourn motions returnable in the Motion Submission Part (the "Submission Part") must be made by contacting that part at (646) 386-3030. Requests for a "so-ordered" stipulation to adjourn a motion returnable in the Submission Part should be directed to the Part Clerk at (646) 386-3235.
3. Requests to adjourn any post-submission motion, oral argument, conference, or other appearance in Part 38 should be made at least two business days before the scheduled appearance. Parties seeking an adjournment of any appearance should contact the Part Clerk at (646) 386-3235.

### **Motion Practice**

1. Oral argument on motions will be scheduled at the Court's discretion. If a motion is scheduled for oral argument, the parties shall provide courtesy copies of motion papers to the Park Clerk upon check in for oral argument.
2. The motion calendar for IAS Part 38 will be held on Thursdays at 9:30 a.m. Parties appearing for motions should check in with the Part Clerk when all parties are ready for argument, and cases will be heard in the order that they are checked in. Failure to appear for oral argument by 10:30 a.m. will be considered a default.
3. **No party shall file a discovery motion without leave of the Court.** Discovery disputes shall be resolved in accordance with the procedures set forth in the Discovery section of these Part Rules.
4. Orders to Show Cause ("OSC") must be e-filed and accepted by the Ex Parte Office (646-386-3125) prior to submitting the order for Justice Nock's signature. Once approved by the Ex Parte Office, the movant must bring the motion folder and a hard copy of the OSC directly to Part 38 for further review.
5. To withdraw a motion pending in the Submission Part, the movant should electronically file a stipulation or letter withdrawing the motion under the appropriate motion sequence number. Contact the Submission Part at (646) 386-3030 for all inquiries regarding motions pending in that part.
6. To withdraw a fully submitted motion that is pending in Part 38 (whether or not oral argument has been scheduled), the movant should electronically file a stipulation or letter withdrawing the motion and advise the Part Clerk immediately.

### **Conferences**

1. Discovery conferences will be held on Thursdays at 2:15 p.m. Parties should check in with the Part Clerk when the matter is ready to be conferenced, and cases will be heard in the order that they are checked in. Failure to appear for a conference by 3:15 p.m. will be considered a default.
2. Parties may request a settlement conference by calling the Part Clerk.

### **Discovery**

3. All parties are expected to strictly adhere to discovery deadlines set by the Court, including deadlines set forth in Preliminary or Compliance Conference Orders.
4. Parties must consult with one another in a good faith effort to resolve all discovery disputes. If the parties are unable to resolve any disclosure, they should contact the Court to conference the matter as soon as practicable to avoid exceeding the discovery cutoff date.
5. The Court is available to conference discovery disputes by telephone every Monday through Wednesday between 3:00-5:00 p.m. To conference a dispute with the Court, the parties should call Chambers with all parties on the line or contact Chambers with a conference dial-in during this time. No prior appointment is required. Parties that need an immediate ruling during a deposition may contact chambers at any time for this purpose.
6. Parties may also call the Part Clerk at any time to schedule an in-person discovery conference with the Court. Barring exigent circumstances, in-person discovery conferences will be held on Thursdays at 2:15 p.m.
7. No party shall send a letter to Chambers related to a discovery dispute without permission of the Court.

### **Trials/Evidentiary Hearings**

8. Parties shall provide the following to the Court at the pre-trial conference: marked pleadings and bills of particulars; all prior decisions in the case; all notices to admit, with responses; copies of transcripts of depositions intended for use at trial; in the case of a jury trial, a proposed jury verdict sheet; a list of proposed witnesses; and each attorney's business card and a number where they can be reached during trial. If a witness needs an interpreter, please indicate the language and any dialect.
9. Parties are strongly encouraged to stipulate to all facts and documents not in dispute prior to trial, and have agreed-upon documents, photographs and other exhibits pre-marked into evidence by the court reporter outside the presence of the jury.
10. It is the duty of the parties, not court personnel, to make sure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.

11. All requests to set up audiovisual equipment in the courtroom shall be directed to the Part Clerk.

**HON. KELLY O'NEILL LEVY**, Part 19, IAS General Assignment Part, 60 Centre Street, Room 218, New York, NY 10007,  
Chambers: 60 Centre Street, Room 665, New York, NY 10007, Phone 646-386-3885

**Court Attorney:** Premila Reddy, Esq.

**Part Clerk:** Christine Pond, phone 646-386-3979, Fax: (212) 618-5135

**Part 19 is an E-Filing Part.**

Preliminary Conferences: Wednesdays at 9:30 a.m., or as otherwise directed.

Compliance/Status Conferences: Wednesdays at 9:30 a.m., or as otherwise directed.

Oral Arguments on Motions: Wednesdays at 11:00 a.m., or as otherwise directed.

**FAILURE TO APPEAR BY 11:00 AM AT ANY SCHEDULED CONFERENCE WILL BE CONSIDERED A DEFAULT; YOUR PLEADINGS MAY BE STRICKEN.**

**FAILURE TO APPEAR FOR ORAL ARGUMENT WITHIN 30 MINUTES OF THE DIRECTED TIME MAY RESULT IN A DEFAULT.**

**1. COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS**

Adjournment requests and questions regarding scheduling should be directed to the Part Clerk. Do not call Chambers regarding scheduling matters and requests for adjournments. Any such calls will result in your being directed to the Part Clerk.

- A. Adjournment requests for conferences and oral argument should be made by contacting the Part Clerk. All adjournments require prior court approval.
- B. Adjournment requests for mediation dates in Mediation I and/or jury selection dates in Trial Part 40 should be made by contacting the appropriate Part Clerks. Justice O'Neill Levy and her Part Clerk do not administer those calendars.
- C. Cases that have been settled require the filing of a Stipulation of Settlement and Discontinuance with the County Clerk's Office and must be e-filed with a fax copy to the Part Clerk [(212) 618-5135].

**NO EX PARTE COMMUNICATIONS**

**2. MOTION PRACTICE**

- A. Part 19 is an e-filing part. Any questions regarding e-filing should be addressed to the E-Filing Department at (646) 386-3610 or [newyorkef@nycourts.gov](mailto:newyorkef@nycourts.gov).
- B. Discovery motions are strongly discouraged. Counsel are reminded that in accordance with Rule 10 of the Rules of the Justices, prior to making any such motion, counsel shall consult one another in a good faith effort to resolve any discovery disputes. If a discovery dispute arises before the issuance of a preliminary or compliance conference order and a party has made a formal discovery motion, a conference will be scheduled for the return date of the motion. If a discovery dispute arises after the issuance of a preliminary or compliance conference order, it must be directed to the Part Clerk who will schedule a new conference or advance the date of a previously-scheduled conference.
- C. All summary judgment motions must be filed within 120 days after the filing of the note of issue.
- D. Motion Papers: Memoranda of law shall not exceed 30 pages each (exclusive of table of contents and table of authorities), and affidavits/affirmations shall not exceed 25 pages each, double-spaced. All motion papers, including notices of motion, opposition, reply, memoranda of law, exhibits, affirmations, and affidavits must reflect the respective motion sequence number on the first page in the upper right-hand corner. No sur-replies are accepted.
- E. Part 19 requires working copies of all motion papers. Working copies shall be provided at least two days prior to oral argument.
- F. Oral Argument
  - i. Scheduling: If oral argument is requested, it should be so indicated on the notice of motion. After motions are fully submitted in the Motion Submission Part Courtroom (Room 130), they are forwarded to Part 19 and scheduled for oral argument. The parties will be notified of the oral argument date via eTrack (<http://iapps.courts.state.ny.us/webcivil/etrackLogin>). Motions submitted on default or with no opposition are not generally scheduled for oral argument. Other motions will be scheduled for oral argument at the Judge's discretion. If oral argument is scheduled you will be so notified electronically.
  - ii. Adjournments: All adjournments of oral argument require prior court approval. Should you seek an adjournment, please call the Part Clerk and fax a stipulation of adjournment no later than 4:00 p.m. of the Monday before the argument date. If the parties do not agree on an adjournment, they should arrange a conference call with the Part Clerk.

- iii. Settlement Authority: Parties appearing on dispositive motions should have settlement authority. A failure to appear with settlement authority may be deemed a default.
- G. DO NOT COPY THE COURT ON LETTERS OR DOCUMENTS EXCHANGED BETWEEN COUNSEL. The court will not read them and they will be discarded unread by the Part 19 Clerk without being shown to the court.
- H. If a motion has been withdrawn or settled, whether or not sub judice, the parties must immediately call the Part Clerk and efile and fax a stipulation to the part.
- I. SEND NOTHING TO CHAMBERS, UNLESS PREVIOUSLY DIRECTED TO DO SO BY THE COURT. Stipulations, papers, etc. should be filed or delivered to the appropriate Clerk. The appropriate Clerk accepts documents for filing, not chambers.
- J. TO DETERMINE WHETHER A DECISION HAS BEEN RENDERED, please check the ECF system or the Supreme Court Records On-Line Library (SCROLL) at [www.nycourts.gov/suptctmanh](http://www.nycourts.gov/suptctmanh)

### 3. PRELIMINARY AND COMPLIANCE CONFERENCES

On conference days, there is NO calendar call. Orders should be filled out and given to the Part Clerk when all parties are ready to proceed. The parties will then conference with the Judge or court attorney.

If the opposing party fails to appear by 11:00 a.m., please notify the Part Clerk.

- A. Scheduling:
  - i. Preliminary Conferences - May be scheduled pursuant to an RJJ or a motion. Alternatively, any party in a case which has an RJJ that was already filed may contact the General Clerk's Office which will schedule one for the first available date.
  - ii. Compliance Conferences - May be scheduled pursuant to a prior discovery order, a decision on a motion, or by the parties by contacting the Part 19 Part Clerk via stipulation or conference call. A date will be scheduled as soon as practicable.
  - iii. Adjournments: All adjournments of conferences require prior court approval. Should you seek an adjournment, please call the Part Clerk and efile and fax a stipulation of adjournment no later than 4:00 p.m. of the Monday before the conference date. If the parties do not agree on an adjournment, they should arrange a conference call with the Part Clerk.
- B. Prior Orders or Stipulations: Please bring copies of all prior conference orders and stipulations to conferences. If you have any motions pending in the Motion Submission Part Courtroom, or which are sub judice, please bring this to the attention of the Part 19 Part Clerk and consult with the Judge's court attorney.
- C. Following each conference, all Orders will be scanned and available on eCourts/ECF and/or SCROLL.
- D. Authority: Attorneys attending conferences must have authority to bind the party on all issues. Appearances by counsel without authority may be deemed a default.
- E. Instructions Applicable to All Conference Orders
  - i. Caption: IAS Part 19, Justice Kelly O'Neill Levy.
  - ii. Please write legibly with black or blue ball point ink and press hard. Illegible orders will not be signed. You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.
  - iii. Please number the pages (e.g. 1 of 3, 2 of 3, etc.). All items on a Preliminary Conference form must be completed or marked "n/a" if not applicable.
  - iv. Use complete dates, including the correct year.
  - v. Use firm cut-off dates such as "on or before December 31, 2015." Do not use "within 45 days," etc. Please consult with your clients, examining doctors, etc. regarding their availability for EBTs, IMEs, etc. before you select a date. Pick a reserve date if you are unsure of the exact date.
  - vi. Consult with the Judge's court attorney if you have any issues that cannot be resolved amicably. The court attorney will serve as a referee to resolve disputes and the case may be referred to the Judge.
  - vii. DCM Track: Any dispute concerning the track assigned to the case (Expedited, Standard, Complex) should be brought to the attention of the court attorney.
  - viii. The Court reserves the right to include the following relevant language:  
 "The parties have been advised that the dates contained herein will be strictly enforced and that failure to comply with this Court's Order(s) will result in the imposition of any appropriate sanction, including, but not limited to, monetary costs and sanctions, issue or defense preclusion, witness preclusion, and/or the complete or partial striking of a pleading."

### 4. TRIAL DATES

Unless otherwise directed, after the note of issue has been filed, the case will be assigned to Mediation I or Trial Part 40 by the General Clerk's Office. Part 19 does not maintain a separate pre-trial conference calendar.

## 5. TRIAL RULES

- A. Upon the first appearance before this Court for trial, the parties must furnish the following:
  - i. A list of proposed witnesses, including the need for any interpreters with required language and dialect;
  - ii. An estimate of required trial days;
  - iii. All marked pleadings and bills of particulars;
  - iv. A copy of any statutory provisions in effect at the time the cause of action arose upon which any party relies;
  - v. Any notices to admit;
  - vi. Copies of those portions of EBTs intended for use at trial for any purpose;
  - vii. A trial memorandum, not to exceed five (5) pages, setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law;
  - viii. All prior decisions in the case, including any appellate decisions; and
  - ix. Two (2) business cards for each attorney.
- B. Prior to the start of trial, the parties must furnish the following:
  - i. All in limine or other applications. All motions in limine must be presented in writing to the court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties. Any such motion or application must include citations to relevant authority.
  - ii. For jury trials:
    - a. Proposed jury instructions and jury verdict sheets. At the commencement of trial, all counsel shall submit proposed jury charges and verdict sheets.
      - 1. Proposed jury instructions are to be emailed in Word or WordPerfect format to the court attorney and opposing counsel simultaneously. If using PJs, please include the number and title. If an instruction requires characterization or description of the evidence or the parties' contentions, the exact requested language, together with the authority for it, must be submitted; and
      - 2. Proposed jury verdict sheets must be emailed in Word or WordPerfect format to the court attorney and to opposing counsel simultaneously;
    - C. Parties are strongly encouraged to have the court reporter pre-mark all exhibits for identification and/or evidence if without objection;
    - D. It is the duty of counsel to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street, Room 145M;
    - E. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency. Trials are held every weekday except Wednesday. No adjournments will be granted if a witness is unavailable to testify unless the court concludes that good cause exists.
    - F. No Communication with Jurors: In order to maintain the appearance of total impartiality, once the jury has been selected, no one is to communicate in any form at any time with any juror. This includes both verbal and non-verbal communication.
    - G. Trial Objections and Arguments: Objections should be concise. If you believe further argument is required, ask permission to approach the bench.
    - H. Courtroom Comments and Demeanor: Please remain calm and courteous at all times. All remarks should be directed to the court. No comments should be made to opposing counsel. Please do not "talk over" each other; only one person may speak at a time to make for a clear record.
    - I. Examination of Witnesses: 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. Do not interrupt the witness in the middle of an answer, unless it is totally unresponsive in which event you should seek a ruling from the court.

**HON. W. FRANC PERRY**, Part 23, IAS General Assignment Part, Room 307, 80 Centre Street, New York, NY 10013, Part Clerk; Daisy Perry, Courtroom Phone: (646) 386-3754; Email documents to [sfc-part23@nycourts.gov](mailto:sfc-part23@nycourts.gov); Nina Cangiano, Esq., Principal Law Clerk; Matthew R. Torsiello, Esq., Assistant Law Clerk.

### **Compliance, Status, and Pre-Trial Conferences**

All conferences will be held in Part 23, Room 307 on Tuesdays at 9:30 a.m., unless otherwise specified. All cases are heard in the order in which they are ready. All counsel must be present for the case to be deemed ready. Do not check in with the Part Clerk until all sides are present and the proper forms have been completed by all counsel. Default applications will be entertained by the Court at 11:30 a.m. (22 NYCRR 202.27).

Preliminary and Compliance Conference Orders are orders of the Court and counsel are expected to adhere to court-ordered discovery deadlines. At each compliance conference, counsel must bring a list of all discovery previously ordered but not yet completed as well as new discovery requested which could not have been previously addressed. Failure to adhere to deadlines and comply with discovery orders may result in penalties authorized by CPLR 3126.

### **Motions**

**NOTE: Courtesy/working copies are not required, unless directed by the Court.**

All Orders to Show Cause will be heard on Thursdays at 80 Centre Street, Room 307, at 9:30 a.m., unless otherwise directed by the Court. Any party seeking a Temporary Restraining Order or interim relief must appear with the affected adversary or provide proof to the Court that the adversary was notified but declined to appear when the application is presented for signature. Opposition papers to an OSC will be accepted on the return date unless otherwise directed by the Court. Reply papers are not permitted, absent Court approval. An OSC providing for temporary injunctive relief pending hearing of the OSC shall not be adjourned absent good cause.

Motions brought by Notice of Motion shall be made returnable in the Motion Submission Courtroom, Room 130, at 60 Centre Street. After motions are fully submitted in Room 130, they are sent to Part 23 and scheduled for oral argument at the Judge's discretion. If oral argument is scheduled, you will be notified electronically. All cases scheduled for oral argument will be heard on Thursday, at 80 Centre Street, Room 307, at 10:00 a.m.

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 been interposed in an untimely or otherwise inappropriate manner. The CPLR does not provide for sur-reply papers; the Court will not read sur-reply papers. Letters should not be sent to the Court concerning a motion after the motion has been marked submitted, unless on consent of all parties or Order of the Court.

Discovery motions are strongly discouraged. If a discovery dispute arises, any party, in lieu of filing a motion, may request a conference by submitting a letter to the Part Clerk at: [sfc-part23@nycourts.gov](mailto:sfc-part23@nycourts.gov). Conferences will be granted at the Court's discretion. If a party has made a discovery motion, a conference will be held by the Court for the same date as oral argument and will be conducted before counsel is heard on the motion.

All summary judgement motions must be filed within 120 days after the filing of the note of issue. Courtesy/working copies are not required, unless directed by the Court.

### **Settlement/Discontinuance/Motion Withdrawn**

If the case has settled or if a motion has been withdrawn, the parties must immediately call the Part 23 Clerk and email a stipulation to the Court, executed by all affected parties, indicating that the matter has settled and/or that the motion has been withdrawn. If a case settles and a motion is pending, please include a provision in the stipulation of settlement withdrawing the pending motion and include the Motion Sequence Number.

### **Adjournments**

**PLEASE DO NOT CALL CHAMBERS REGARDING SCHEDULING MATTERS AND REQUESTS FOR ADJOURNMENTS.** All requests for adjournments shall be delivered to the Court by 3:00 p.m. the day before the scheduled appearance. All consent adjournment requests are to be made to the Part Clerk; if granted by the Court, requests must be confirmed in writing by email to [sfc-part23@nycourts.gov](mailto:sfc-part23@nycourts.gov) and indicate the reason for the adjournment, the index number, Motion Sequence Number, appearance date, proposed adjournment date and number of adjournments previously granted.

If the parties cannot agree on an adjournment, the parties must appear on the scheduled date, after due notice to all parties, for an oral application requesting the adjournment. Motion practice related to adjournments should be avoided. The parties are reminded of the importance of professional courtesy and cooperation when dealing with one another.

### **Note of Issue**

The Note of Issue may be filed and a future compliance conference may be avoided, provided that all parties who have appeared in the action, stipulate in writing that all discovery is complete and provide for the filing of the note of issue. The stipulation must be delivered to the Part 23 Clerk.

### **Trial Rules and Requirements**

Once a trial is assigned to Part 23, a trial conference shall be held with the Court and all counsel will be provided with Justice Perry's trial rules.

### **Communication with the Court**

*Ex parte* communication with Justice Perry and/or his law clerks is not permitted. Letters seeking affirmative relief will not be considered by the Court. In addition, do not copy the Court on letters exchanged between counsel, unless previously directed to do so by the Court. Any email directed to the Law Clerk or Part Clerk must be copied to all counsel.

**HON. EILEEN A. RAKOWER** Part 6, Medical Malpractice IAS Part, Room 205, 71 Thomas Street, Tel: (646) 386-3312, Fax: (212) 520-1095

### **Court Attorneys:**

- Jamie Y. Gold, Esq.
- Noelle Block Lubin, Esq.

**Courtroom Part Clerk:** Ms. Susan MacLeod (646) 386-3312

The calendar day for this part is Tuesday.

### **PRELIMINARY CONFERENCES**

- The preliminary conference shall be scheduled 45 days from the first Request for Judicial Intervention.
- In completing the preliminary conference form, counsel or unrepresented parties should comply with the following time frames: Authorizations should be supplied within 30 days from the date of the preliminary conference. Plaintiff's deposition

should be scheduled within 60 days of the preliminary conference. Defendants' depositions are generally conducted in the order in which the defendants are listed in the caption, but, where a defendant's deposition cannot proceed as scheduled, the remaining defendants' depositions should proceed as scheduled.

- Parties are to welcome to fax a Preliminary Conference form to (212) 520-1095 as long as it comports with the above.
- The date for filing the note of issue will be assigned as 12 months from the date of the preliminary conference.

## CONFERENCES

- All appearances are at 9:30 A.M. unless otherwise directed.
- Counsel and parties who are appearing should be prepared and authorized to discuss all aspects of the matter including discovery and settlement of the matter.
- Please bring copies of all prior conference orders and stipulations to the conferences.
- Counsel must bring a list of all outstanding discovery. Items not on the list will be deemed (1) not requested; (2) complied with; or (3) withdrawn.
- If you have any motions pending, please bring this to the attention of the Court at the time of the conference and have working copies available.
- If the case has settled, the parties must promptly fax the Court with the stipulation of settlement and discontinuance.

## PRE-TRIAL CONFERENCES

- Following the filing of the note of issue, all parties must appear for a pre-trial conference and be prepared to set a trial date.
- For conferences specifically designated as settlement conferences, the Court may require representatives of insurance carriers, or other persons having an interest in any settlement to also attend or be available by telephone.
- The Court requires three business days' notice for cancellation or adjournment of Settlement Conferences.
- At least three weeks before the initial pre-trial conference, plaintiff should communicate a written demand to defendant.

## SETTLEMENT CONFERENCES

- Where all the parties seek a settlement conference with the judge, the parties need only contact the court attorney who will provide a date and time to appear.

## DISCOVERY

- If during a deposition a dispute arises, the parties should consult the Uniform Rules for the Conduct of Depositions and make a record of their objections. (22 N.Y.C.R.R. § 221.1, et seq.) The Court will not make a ruling by phone.
- Parties having discovery disputes are encouraged to advance their compliance conference by contacting the Clerk before filing any written motion.
- Plaintiff should file the note of issue only after completion of discovery, including non-party depositions.

## ADJOURNMENTS

- Any adjournment must be approved by the Court.
- Requests for adjournments of conferences or oral argument of motions must be made by 3:00 p.m. on the immediate prior Monday.
- Adjournments will **NOT** be granted, on consent or otherwise, without a showing of exigent circumstances, and an affirmation attesting to the reason an adjournment is being requested.
- The Court does not accept stipulations signed by one attorney on behalf of another. Multiple signature pages are permitted.
- Parties seeking permission for an adjournment because of a pending dispositive motion must still appear at their scheduled compliance conference.
- Discovery will not be stayed pending any motion unless specifically ordered by the Court. Any request for a stay must be made by Order to Show Cause.
- The court will not grant adjournments where counsel anticipates making a *future* motion.

## MOTIONS AND ORDERS

- Counsel is strongly encouraged to seek a conference with the Court to resolve any ongoing non-dispositive or ancillary disputes *prior* to filing motions over those disputes.
- Summary judgment motions must be made by order to show cause no later than 60 days after the filing of the Note of Issue. E-filed submissions are sufficient. However, if a party chooses to file a hard copy, please deliver directly to the Court at Part 6, 71 Thomas Street.

- Please be prepared to proceed immediately to a settlement conference or a pretrial conference after oral argument on a summary judgment motion in the event that the motion is denied.
- All motions should include pinpoint citations to documents contained within exhibits, where appropriate. For example, in a medical malpractice case, a citation to an operative report that is included in an exhibit containing medical records should not simply cite to the exhibit as a whole but rather should identify the document within the exhibit and any location within that document to which you direct the Court's attention. E.g., See Exh. C at operative report dated xx/xx/xx at page 1. Avoid using condensed transcripts of more than 4 pages per page.

#### ORDERS TO SHOW CAUSE

- Parties should be aware that once ex-parte accepts a proposed Order to Show Cause and uploads it into the e-filing system, **it remains the responsibility of the movant to present the Order to Show cause to the judge for signature.**
- Any motions where oral argument is required should be made by order to show cause.
- All orders to show cause shall be served by e-filing and overnight mail unless otherwise indicated.
- Sur-replies will not be accepted, without Court permission.
- Discovery is not stayed pending a motion, unless specifically ordered.
- Do not call the Court to determine whether a decision has issued. This information is available through the Supreme Court Records On-Line Library (SCROLL) and, if the action is e-filed, through NYSCEF.
- All documents submitted for in camera review **MUST** be bated stamped and accompanied by a privilege log.
- Where counsel seeks to withdraw from representation, there shall be no stay in effect unless and until such motion is granted.
- When providing deposition transcripts as exhibits to the court, the parties must provide a complete copy of the entire deposition transcript.

#### COMMUNICATIONS WITH THE COURT

- The Court will **NOT** do business by phone. The only questions that are properly addressed to the Court are those concerning scheduling. All such inquiries should be directed to the Park Clerk, Susan MacLeod, (646) 386-3316. The Court is in recess from 1:00 P.M. - 2:00 P.M.
- **PLEASE DO NOT CALL OR WRITE CHAMBERS.**
- Please do not call the Court to adjourn a motion pending in the Motion Submission Part. In any event, no adjournment will be granted beyond 60 days. Uniform Rules for Trial Courts, 202.70, Rule 16(c).
- **EX PARTE COMMUNICATIONS ARE STRICTLY PROHIBITED. This includes any telephone calls to chambers regarding decisions rendered.**
- **DO NOT WRITE LETTERS OR EMAILS TO THE COURT UNLESS YOU:** 1) Seek to withdraw a motion or 2) Wish to advise the court that a case has settled.
- All letters, or other correspondence concerning substantive issues will be not be accepted or responded to.

#### 3101(d) EXPERT EXCHANGES

- Plaintiffs shall serve their 3101(d) expert exchange no later than 60 days after the filing of the note of issue.
- Defendants shall serve their 3101(d) expert exchange no later than 30 days from the service of plaintiffs' expert exchange.

#### TRIALS

- At the commencement of trial, the Court is to be provided with the marked pleadings as well as proposed verdict sheets and requests to charge, with the understanding that these will be subject to revision.
- The Court is also to be provided with a copy of any deposition transcripts that are intended for use during trial, a list of proposed witnesses, all prior decisions in the case, and any notices to admit.
- If a trial witness used a translator at their deposition, the party calling that witness must notify the trial court two days in advance of the testimony that an official court interpreter is required - alert the court of the language, and dialect, if applicable - and estimate the length of time (half day, day, multiple days) that the interpreter will be needed.

#### POST TRIAL

- Any post trial motions must be made by Order to Show Cause within the statutory 15 days after the verdict. (See, CPLR §4405).

**HON. ROBERT R. REED** Part 43, IAS General Assignment Part, 60 Centre Street, Rm. 412, New York NY 10007, Phone: (646) 386-3238 Chambers 60 Centre, Rm 691 New York, NY 10007 Phone: (646) 386-3026 Principal Law Clerk: Mr. John Owens Jr., Esq. Part 43 Clerk: Ms. Alicia Washington ([awashing@nycourts.gov](mailto:awashing@nycourts.gov))

**Preliminary Conferences:** Thursdays, commencing at 9:30 a.m., or as otherwise directed.  
**Oral Argument on Motions:** Thursdays, commencing at 10:00 a.m., or as otherwise directed.  
**Compliance/Status 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.

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#### **GENERAL**

1. Counsel must familiarize themselves with these Part Rules and the Rules of the Justices of the Supreme Court, Civil Branch, New York County (the "Local Rules").
2. Counsel and litigants (represented or self-represented) are advised that Justice Reed, his Law Clerks, and Part Clerk will not engage in any *ex parte* communications.
3. Counsel must notify the Court, as soon as practicable, by conference call or e-mail, of any settlement or resolution of active cases or pending motions, to avoid the unnecessary use of Court resources on matters that are resolved or that are expected to be resolved imminently.
4. **THERE IS NO CALENDAR CALL.** Parties appearing for oral argument on a motion should check-in with the Part Clerk.
5. Parties appearing for a conference should fill out a stipulation or proposed conference order. Once all parties are present, the stipulation or proposed conference order should be submitted to the Part Clerk. The Law Clerks will then call your case when the court is ready for your conference.
6. Counsel with appearances elsewhere in the courthouse should advise their adversary of their whereabouts to avoid a default/striking of pleadings.

#### **COMMUNICATION WITH THE PART CLERK AND CHAMBERS**

1. Justice Reed **DOES NOT** accept any letters, documents, or papers by e-filing or mail unless expressly permitted by these Part Rules or by prior approval of the Court. **DO NOT** copy the Court on letters exchanged between the parties. The Court will not read them, and they will be discarded unread by the Part Clerk without being shown to the Court.
2. Documents requiring Justice Reed's signature must be e-filed, **AND** the original must be sent to Part 43 by either mail or delivery service (e.g., proposed/settled orders, proposed orders to show cause, stipulations, or transcripts to be "so-ordered").

#### **ADJOURNMENTS**

1. All requests for adjournments (motions scheduled for oral argument, conferences, trials) require prior court approval. Without prior approval, a stipulation will not be accepted and failure to appear may result in a default. *Ex parte* applications will not be considered. **All adjournment requests must provide a reason for the request.**
2. All requests for an adjournment shall be directed to the Part Clerk at 646-386-3238 or [awashing@nycourts.gov](mailto:awashing@nycourts.gov). Unless specifically instructed to do so, **DO NOT** call or e-mail chambers regarding scheduling matters and requests for adjournments.
3. In general, motions scheduled for oral argument and conferences will only be adjourned by stipulation. The parties must first consult with the Part Clerk before selecting a new date for the oral argument or conference. Applications to adjourn a conference shall be made at least 24 hours in advance of the scheduled conference. Applications to adjourn a motion scheduled for oral argument should be made at least 72 hours in advance of the oral argument.
4. Except for emergency situations, adjournments for motions scheduled for oral argument **WILL NOT** be given if the application is made less than 72 hours before the scheduled appearance.

#### **MOTION PRACTICE**

1. All motion papers must comply with Rule 14 of the Local Rules.
2. All requests for admission *pro hac vice* should be made by stipulation, if possible.
3. CPLR 3212 summary judgment motions (and other dispositive motions) are to be filed not later than 60 days after the filing of the Note of Issue.
4. Orders to show cause with requests for temporary restraining orders, including requests for a temporary stay of an action, will generally not be heard *ex parte*.
5. OSC opposition papers shall be e-filed **72 hours** before the motion is to be heard. The Court **WILL NOT** accept replies on any OSC.

6. **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. Working copies are **not required** for documents that do not require judicial action (e.g., note of issue, answers, and discovery demands).
7. The CPLR does not provide for sur-reply papers, however denominated. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Submission Part Courtroom (Room 130), or after argument in the Part, if any, except with the advance permission of the court. Materials presented in violation of this Rule will not be read.
8. 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.
9. Failure to check-in for oral argument with the Part Clerk by 10:30 a.m. may result in a default.
10. **Disclosure Motions.** Prior to making a discovery motion, counsel shall consult one another in a good faith effort to resolve any discovery disputes (see Uniform Rule 202.7). If a dispute is not thus resolved, the party seeking disclosure, unless otherwise directed by the Court, is advised to contact the Part Clerk promptly, and within any applicable deadline, for the purpose of arranging a conference, in Court or by telephone.

#### **PRELIMINARY AND COMPLIANCE CONFERENCES**

1. 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 Justice Reed or his Law Clerks have reviewed the completed form, conferenced the case and provided a signed copy of the order/stipulation.
2. **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.
3. 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 and/or Uniform Rule 202.27. Such sanction may include dismissal of the action or proceeding, the striking of an answer, direction for an inquest, direction for judgment, or other appropriate sanction.
4. Absent good cause, failure to comply with a discovery order may result in the imposition of penalties upon the offending party and, where warranted, upon counsel. Such penalties may include waiver of discovery, preclusion, dismissal of the action or proceeding, striking of an answer, costs, sanctions, and attorney's fees.
5. In e-filed matters, copies of preliminary conferences and compliance conference orders will be available electronically.

#### **TRIAL PREPARATION/TRIAL PRACTICE**

1. 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 its 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 any use of the identified testimony before the jury.
2. 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. Note: the Court will not entertain untimely dispositive motions disguised as motions *in limine*.
3. 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.
4. For jury trials, the parties shall submit proposed verdict sheets and requests to charge (subject to amendment), citing the PJL sections, preferably before the commencement of trial, but not later than the start of the second day of trial.
5. 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.). **NO SPEAKING OBJECTIONS.**
6. All remarks related to objections should be directed to the Court. Comments should not be made to opposing counsel.
7. Do not approach a witness, the jury or the bench without permission of the Court. Please allow the witness to complete his/her answer to your question before asking another question.
8. 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.

9. Any post-trial motion shall be made by OSC within the time allotted pursuant to CPLR 4405.
10. Trial extracts will be filed by the Part Clerk within 30 days of entry of the verdict or decision.

**HON. JULIO RODRIGUEZ III**, Part 62, City Part, 80 Centre Street, Room 122, New York, NY 10013

Part Clerk: Carlos Brown  
Courtroom Telephone: 646-386-3274  
Law Clerk: L. Darlene Beato, Esq.  
Assistant Law Clerk: Paul Wentworth, Esq.  
Chambers Telephone: 646-386-3191

1. **Conferences:** All conferences in matters involving the City of New York where the City is represented by Corporation Counsel (DCM cases) are held at 80 Centre Street, Room 103, New York, NY 10013. For adjournments or other calendar issues involving appearances in DCM, please call 646-386-3683. Stipulations to adjourn the conferences must include a reason for the adjournment, and may be sent to the DCM clerk by facsimile to 212-952-2779 or by email to [jtmetzger@nycourts.gov](mailto:jtmetzger@nycourts.gov).
2. **In-camera review of documents:** No compliance conference stipulation or order shall direct any party to submit records or other evidence to the Court for an in-camera review without first conferring the matter with the Law Clerk or Assistant Law Clerk.
3. **Summary Judgment Motions:** All summary judgment motions must be made and filed **no later than 60 days** after filing the Note of Issue. Absent good cause shown for the late filing, a late motion will be summarily denied, even if the adversary has failed to raise the 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 underlying motion.
4. **Motion Practice / Oral Arguments:**
  - a. Oral arguments on motions will be held on Thursdays, commencing at **9:30 a.m.** However, not all motions will be scheduled for oral argument. Do **not** send letters to the Part or to chambers requesting oral argument. Motions submitted on default or with no opposition are generally not scheduled for oral argument. All other motions will be scheduled for oral argument at the Judge's discretion. If oral argument is scheduled, you will be so notified.
  - b. **Failure to appear for oral argument by 10:30 a.m. may result in a default.**
  - c. Do **not** send courtesy copies of any motion papers, affirmations or related documents directly to the Part or Chambers, unless directed to do so.
  - d. All adjournments of oral argument require prior court approval. Should you seek an adjournment on consent, please contact the Law Clerk or Assistant Law Clerk and email a stipulation of adjournment no later than 4:00 p.m. of the Tuesday before the argument date. If the parties do not agree on an adjournment, they should arrange a conference call with the Law Clerk or Assistant Law Clerk no later than 4:00 p.m. of the Tuesday before the argument date.
  - e. Parties appearing on dispositive motions should have settlement authority. **A failure to appear with settlement authority may be deemed a default.**
  - f. If a motion has been withdrawn or settled, the parties must e-file a Stipulation and advise the Law Clerk or Assistant Law Clerk immediately

**HON. MARY V. ROSADO, Part 26, 111 Centre Street, Room 731, New York, New York 10013**

Principal Law Clerk: Kelly W. Perez, Esq.  
Assistant Law Clerk: Shane A. Miller, Esq.  
Courtroom Part Clerk: Elizabeth M. Watts, [emwatts@nycourts.gov](mailto:emwatts@nycourts.gov), (646) 386-3308

#### RULES SPECIFIC TO GUARDIANSHIP CASES

Any party seeking an adjournment or seeking an earlier court date must submit an affirmation to the court explaining the reasons for the request and must send copies to all interested parties and the Part Clerk.

Litigation is not to take place via emails. All requests for relief should be made in appropriate form of either affirmations and/or proposed orders.

No appearances by the AIP are waived unless expressly granted by the Court in advance. All AIPs are to be in court unless prior written approval has been granted. The Court will accommodate AIPs who cannot come to Court by going to their home, nursing home or hospital, but please advise the Part Clerk of such an application at the time of signing the Order to Show Cause or include the request in your Order to Show Cause.

Please advise the Part Clerk of any outstanding proposed orders and/or motions that have not been addressed.

File original court evaluator reports with the Guardianship Office at 60 Centre Street, room 158 and email a copy to the Part Clerk at least two days in advance of the hearing or scheduled conference.

#### BE PROMPT AND PREPARED

It is fully expected that motions, hearings, and trials begin as scheduled. Cell phone numbers of respective counsel should be provided to opposing counsels and the court when there is a hearing or trial expected to proceed for more than one day. In the event of an unavoidable delay, it is expected that counsel contact opposing counsel and the court as soon as possible. Failure to appear on time, without good cause, may result in the consideration of sanctions. Bench trials are usually "back to back" and jury trials involve the coordination of numerous witnesses and any unnecessary delays are inherently unfair to the jurors, litigants, counsel, other litigants awaiting trial, and the Court.

#### COURT DECORUM

The pressures of the courtroom are well-known and will be considered by the Court in the context of robust oral argument. However, all attorneys are expected to treat each other, the parties, court personnel and the court with civility and respect. Anything less will not be tolerated. Good advocacy is not incongruent with the highest aspirations of the profession and good manners. Attorneys and clients are expected to dress appropriately at all times.

#### EX PARTE COMMUNICATIONS

There are to be no *ex-parte* communications with the court. If counsel needs to speak with chambers about the scheduling or other issue of a matter, he should first speak with his or her adversary and work out a proposal to present to the Part Clerk. Either party may contact the Part Clerk if the scheduling or other type of administrative matter has been worked out between counsel.

#### HEARINGS AND TRIALS

All parties must be present in court by their scheduled time.

All trials are scheduled for a date and time certain. All counsel must be aware of the schedules of their respective witnesses. Counsel shall alert the Court of: 1) any scheduling conflicts, 2) the need for an interpreter; 3) any other special needs, e.g., easels, blackboards, shadow boxes, or television, subpoenaed material, etc., 4) necessary Court-Ordered subpoenas; 5) any evidentiary issues that ought to be addressed before jury selection, and 6) a list of the witnesses they intend to call and the order, including expert witnesses.

#### ADJOURNMENTS

Once a trial or hearing is scheduled, adjournments only will be granted upon unforeseen extraordinary circumstances. Although the court will work with all parties to schedule a mutually convenient hearing date, it is counsel's responsibility to come to court with full knowledge of when they, their clients, and their witnesses will be available.

#### OBJECTIONS

No Speaking objections. If you raise an objection during the course of the hearing or trial, please use one word to describe the grounds for the objections (i.e. "objection- relevance", "objection- hearsay", objection no foundation

The Court reserves the right to vary these rules in the interest of justice or for good cause shown.

**HON. LORI S. SATTLER** Part 9, IAS Matrimonial Part, Room 222, 60 Centre Street, 646-386-3848; Chambers: Room 649, 60 Centre Street Chambers phone: (646) 386-3819 Facsimile: (212) 520-6833

Principal Law Clerk: Lydia H. Devine  
Assistant Law Clerk: Lily C. Sarver  
Part Clerk: Melissa Barquintero

#### GENERAL PART RULES

All court appearances are on a staggered schedule at a time certain.

Counsel must appear, together with their clients, at all appearances, unless the Court directs otherwise.

Counsel shall bring to any preliminary conference a completed matrimonial Preliminary Conference Order/Stipulation form.

Adjournment requests require Court approval and must be sought by telephone conference call with the Part Clerk. Adjournment requests may be made no later than two business days prior to the return date. **All adjournment requests are to be made by telephone, not email, and will only be entertained if all counsel are on the call, including any attorney for the children. The conference call shall be made to the courtroom (646-386-3848).**

Counsel and/or the parties may not submit *ex parte* correspondence to the Court regarding any pending matter. In addition, correspondence between counsel or between parties, whether by mail, email or facsimile, is **not** to be copied to chambers. If an issue regarding a pending matter arises, a conference call may be made to one of the court attorneys.

All requests for the Court's assistance shall be made via conference call to the courtroom at (646) 386-3848. Counsel for all parties (including the Attorney for the Child if one has been assigned) shall participate in the call.

For all matters assigned to Part 9, counsel are encouraged to request conferences or a conference call with the Court prior to sending a letter or filing motion papers to allow the opportunity to resolve the matter before a motion is made and eliminate the expense and delay caused by excessive motion practice.

#### MOTIONS

All motions shall be made by **Order to Show Cause**.

The Court's designated motion and conference days are Tuesday and Wednesday.

Oral argument is required on all Orders to Show Cause unless otherwise indicated on the Order to Show Cause or directed by the Court.

The Court does not accept sur-reply papers without prior court permission.

**All Orders to Show Cause and cross-motions shall indicate the respective sequence number on the first page in the upper right-hand corner.**

#### TRIALS AND HEARINGS

Trials are conducted on Mondays, Thursdays and Fridays.

Counsel on all cases scheduled for trial in Part 9 must appear for a pre-trial conference on a date selected by the Court. At the conference, counsel shall provide his or her adversary and the court with the following:

1. A statement of proposed disposition, a child support worksheet (if applicable), an updated net worth statement and most recently filed tax returns.
2. A witness list, any expert reports not previously provided, any pre-trial memoranda and marked pleadings.
3. Proof of filing of the note of issue.
4. A list of documents which counsel may stipulate into evidence. The documents are to be pre-marked as exhibits.

Counsel shall, where necessary, make motions *in limine* and be prepared to discuss any evidentiary issues at the conference.

Exhibits left in the Part after a hearing or trial will be held for 30 days and, if not retrieved by the parties, will thereafter be discarded.

#### E-FILING

E-filing in matrimonial matters is now permitted on consent of both parties. The Court encourages counsel to commence new matters by e-filing. However, e-filing will not be accepted in matters where one or both parties are self-represented. If a litigant becomes self-represented in a e-file matter, the matter will be removed from the e-filing system.

**HON. MARTIN SHULMAN**, Part 1, IAS General Assignment Part and Complex Litigation Part, Room 325, 60 Centre Street, Phone: 646-386-5758; also Tax Certiorari Part (E-filing), S. O'Fee, Clerk, (646) 386-3155

**Motions and Conferences:** Tues., on a staggered schedule. Any requests for adjournments must be made to the Part Clerk by conference call with all parties represented.

**HON. ADAM SILVERA**, Part 22, Motor Vehicle Part, 80 Centre Street, Room 136, 646-368-3271 Chambers 646-386-5181

**Court Attorney:** Monica Cheng, Esq.

**Assistant Law Clerk:** Michael Curreri, Esq.

*The Motor Vehicle Part includes the motions, hearings, trials, etc., heard in Courtroom 136 and the Differentiated Case Management ("DCM") Part room 103, which supervises discovery.*

**Oral Argument on Motions** - Wednesdays at 9:30 AM, Courtroom 136.

Part Clerk Phone: **646-386-3271** Fax: **212 952-2810** Att: **Judge Silvera**

Note: The Court requires working copies of all e-filed motion papers, and exhibits **with proof of eFiling attached**.

**DCM Conferences** - Mondays and Fridays at 9:30 AM. in Room 103, Phone: **646-386-3682**.

The DCM Office: (Room 102), Phone: **646-386-3683**, Fax: **212-952-2779**

#### • **Communications with Part Clerk, DCM Coordinators, and Chambers — Including Adjournments**

1. Please notify Part Clerk as soon as a case settles or if all parties want a settlement conference, at any point in the litigation.

2. Requests for Adjournments/Scheduling:

1. For all motions pending in the Submissions Part (Room 130 at 60 Centre Street), follow that Part's rules regarding adjournments and scheduling. The following rules only apply to matters pending in the Part 22 courtroom or in the DCM part. For a motion to be pending in the courtroom, it must have been fully submitted in Room 130 and already rescheduled for oral argument on a Wednesday morning. We can only adjourn motions if we have the file and we only get the file after it is fully submitted in Room 130.

2. For all scheduling matters and requests for adjournments, please call the Part Clerk (for matters in the courtroom) or the DCM Coordinator (for DCM conferences) for instructions. Do not call chambers. Neither the Justice nor the Court Attorney handle adjournments. Please be aware that the Part Clerk and the DCM Coordinators know when and how to consult with Justice Silvera and will do so when necessary.

3. Absent exigent circumstances, all requests for adjournments must be approved in advance. Without prior approval, a stipulation will not be accepted and any failure to appear will be considered a default. To make your request, please call **at least two days** prior to the scheduled appearance by conference call with all counsel on the line. If approved, you will receive a new date and further instructions (i.e. submission of a stipulation). For appearances scheduled in the courtroom, contact the Part Clerk (646-386-3271). For DCM conferences, call the DCM Coordinator (646-386-3682 or 646-386-3683).

C. No *ex parte* communications. Unless specifically instructed, please do not call or e-mail chambers. Do not copy the Court on letters exchanged between counsel.

D. All decisions and orders (including DCM orders) are scanned and available on the Internet (E-LAW or SCROLL). Do not call to ask whether a decision has been issued.

## II. Appearances before the Court/Motion Practice

A. If you want to withdraw a motion *after* the motion leaves the Submissions Part— either before or after argument — please advise the Part Clerk by telephone **immediately**. (If the motion is in the Submissions Part, then follow that Part's rules to withdraw).

B. Attorneys appearing before Justice Silvera must be thoroughly familiar with the case. All Counsel must be prepared for settlement discussions and to have their client or adjuster "on call" by telephone.

C. Please read these rules carefully. **Your papers may be rejected for failure to follow these rules.** The failure of the movant(s) to follow these rules may result in the denial of the motion(s) with leave to renew upon proper papers. However, absent good cause, no deadline will be extended.

### D. General Motion Guidelines

(1) **Motions with opposition**, after being fully submitted in Room 130, will be scheduled for a brief oral argument in the Part 22 courtroom for the next available Wednesday at 9:30 a.m. Do not deliver opposition to motions pending on the Submission Calendar to any Clerk at 80 Centre Street; submit them in Room 130.

(2) **Motion Sequence Number ("MSQ")**: Often several motions are submitted at the same time. To keep papers organized, the first page of EVERY motion paper (notice of motion, opposition, reply, exhibits, etc.) **must reflect the respective MSQ** in the upper right corner.

(3) **Multiple Parties**: If the case has multiple plaintiffs or defendants, then you must state **which specific party(ies)** you represent in your motion papers **and** on the litigation back. Do not state that you represent "defendants" unless you represent all defendants.

- **Exhibits:**

(i) **Tabs**: All exhibits must be identified by protruding tabs.

(ii) **Referring to exhibits**: Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations so the exact location within the exhibit can be found easily. For example, a citation to physical therapy notes contained within an exhibit of medical records should be identified as "physical therapy note dated xx/xx/xx, Exhibit B, page 9"; it should not just refer to "Exhibit B". Likewise, while the entire EBT transcript must be annexed, any reference thereto must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions."

(5) If there is a discrepancy between the relief sought in your notice of motion and the relief sought in your supporting papers, the notice of motion is controlling.

7. **E-Filed papers:** The Court requires courtesy/working copies of all e-filed papers; kindly submit these in Room 130 on the return date and they will be delivered to Chambers with the motion. **Submitted working copies of motion papers must be bound. Failure to submit a complete and properly bound working copy of motion papers may result in a further adjournment or denial of the relief sought.** Do not submit copies directly to chambers. Attach proof to the back of all papers.

a. **General Orders to Show Cause ("OSC"):** Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary (or with proof the adversary has been notified, but declined to appear) when the application is presented for signature.

b. **Orders to Show Cause to be relieved as counsel:** Do not bring your adversary, but you must make sure you provide enough information for Justice Silvera to fashion a method of service likely to reach your client.

c. **Motions to Renew/Reargue:** Please provide a separate appendix, labeled "original motion and decision", containing all papers submitted on the original motion and a copy of the Court's decision. In the appendix, please provide protruding tabs as the exhibits were originally submitted to the Court.

d. **Motions/special proceedings submitted on default** in Room 130 are generally not scheduled for oral argument. However, **the movant must make certain that an affidavit of service is annexed**, even for e-filed motions. Without a proper affidavit of service, relief will be denied.

i. **Discovery motions are strongly discouraged.**

(5) There are two full-time DCM Coordinators and a conference system to handle discovery. Please maximize use of these valuable resources.

(6) All initial discovery motions will be converted into a Case Scheduling Order. You should avoid a motion by simply filing an RJJ with a request for a preliminary conference and you will receive a Case Scheduling Order without having to appear.

(7) If you already have a Case Scheduling Order or already have had one or more compliance conferences and still have a discovery dispute, see Rule IV(B) below.

(8) If the dispute cannot be resolved at the conference, then the issue(s) will be narrowed and the DCM Order will specifically allow a motion to be brought and must set forth a briefing schedule. A copy of that conference order, as well as all other conference orders, must be annexed to all discovery motions.

A. **Summary judgment motions**

(1) **All summary judgment motions must be made no later than 60 days after filing the Note of Issue** - there are no exceptions without leave of Court. In the notice of motion or early in the affirmation in support, please state the date the Note of Issue was filed and that the motion is timely. Absent good cause for late filing, a late motion will be denied, even if your adversary does not object.

(2) Cross-motions, especially cross-motions seeking relief unrelated to the main motion, DO NOT relate back to the date the original motion was made. "Me too" motions are not cross-motions as they do not seek relief against the movant.

(3) Discovery must continue during the pendency of a CPLR §3212 motion, unless good cause is shown for a stay. Consult the DCM Coordinator at the conference regarding the "good cause"; the DCM Coordinator will consult with Justice Silvera, if necessary. A stipulation will not suffice; any stay must be so-ordered.

III. **Notes of Issue**

A. A Note of Issue may NOT be filed unless a stipulation is so-ordered certifying that discovery is complete. Improperly filed Notes of Issue may be stricken *sua sponte*.

B. Usually, the certification of completed discovery will be made at the final compliance conference. However, if all parties agree that discovery is complete before that date, then you can avoid the conference by mailing or faxing a stipulation to the DCM Coordinator at least two days before the scheduled conference. The stipulation must certify that all discovery is complete and provide for the filing of the Note of Issue. The DCM Coordinator will provide a date by which the note of issue must be filed and the so-ordered stipulation will be scanned and will appear on SCROLL.

IV. **DCM/Compliance Conferences**

A. A Bill of Particulars and authorizations are the foundation upon which much discovery is based. **Accordingly, the failure of the plaintiff to provide a Bill of Particulars and HIPAA compliant authorizations by the first compliance conference, without good cause shown, may result in the plaintiff being precluded from offering any evidence of damages.**

B. Conferences are important; be prepared.

(4) The Court invests significant resources into the DCM system **in order to efficiently and fairly resolve discovery disputes**. The rules of this Part require compliance with court-ordered deadlines. Remember, these are court orders, not suggestions. The failure to adhere to deadlines and comply with orders may result in serious penalties. Counsel attending the conference are expected to be familiar with the case and have the authority to discuss and stipulate to resolve all discovery issues.

(5) At each compliance conference, **counsel MUST bring a list** of all discovery previously ordered but not yet completed as well as new discovery requested which could not have been previously addressed (and be ready to explain why it could not have been addressed). Failure to address all outstanding discovery existing at the time of the compliance conference may be deemed a waiver of the right to obtain said discovery.

(6) Please bring copies of all prior conference orders and stipulations to the conferences. If you have any motions pending in the Motion Submission Part, or which are *sub judice*, please bring this to the attention the Part 22 Clerk and consult with the DCM Coordinator.

(7) Counsel are assumed to have consulted clients, examining doctors, etc. regarding their availability for EBTs, IMEs and the like.

(8) Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading may be stricken. Any motion to vacate such a default must be brought by Order to Show Cause and must fulfill the requirements of CPLR §5015.

(9) **If a dispute arises about compliance** with any discovery order, or if deadlines are passing without discovery being provided, **DO NOT WAIT** until the next conference to report, in effect, that nothing has been done. As an officer of the Court, it is counsel's responsibility to comply with court orders and to report non-compliance. If your good faith efforts to resolve the dispute fail, then immediately, before the deadline and without making a motion, call the assigned DCM Coordinator. Then, upon the DCM Coordinator's discretion, the case will be scheduled for a resolution conference (in person or by telephone) or the date of the next scheduled conference will be advanced.

(10) Absent good cause, failing to report discovery problems with DCM immediately, in advance of the deadlines, or failing to comply with any discovery order or DCM Discovery Reminder Notice, may result in the imposition of penalties upon the offending party and, where warranted, upon counsel. Penalties may include waiver of the discovery, preclusion, dismissal, striking the Answer, costs, sanctions and attorneys' fees.

(11) All ordered discovery is important, but counsel should be particularly aware that severe penalties are likely to be imposed for the following noncompliance, because there is little excuse for counsel failing to provide/schedule discovery, since it is so routine:

- (i) Plaintiff's failure to timely provide a Bill of Particulars and HIPAA compliant authorizations.
- (ii) Defendant's failure to timely give notice of, designate physicians for, schedule or conduct IMEs of plaintiff and serve the resulting reports.
- (iii) Plaintiff's failure to attend the IMEs.
- (iv) Either party's failure to schedule and attend a deposition.

C. Instructions Applicable to Compliance Conference Orders

(12) Please write legibly with a black ball point pen. Press hard. Illegible orders will not be signed. You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.

(13) The DCM Case Coordinators have been instructed not to make copies. Although you are free to take a picture of the stipulation with your phone, keep in mind that all orders will be scanned and will appear on SCROLL. Use complete dates, including the correct year. Please remember that some of the dates you are selecting may be in the next calendar year.

(14) Use firm cut-off dates such as "on or before December 31, 2016." Do not use "within 45 days," etc. Because you are assumed to have consulted your clients and examining doctors regarding their availability for EBTs and IMEs, you will be held to the dates to which you commit. Pick a reserve date if you have any uncertainty.

(15) If you have not complied with the "on or before" dates in the Case Scheduling Order/Preliminary Conference Order or the first Compliance Conference Order, then you must pick a specific date during the second compliance conference for the EBTs, IMEs, etc. That is, you get two chances to comply with "on or before" dates. The second Compliance Conference Order must set forth specific dates and include penalty language (preclusion, etc.) for noncompliance and may add "unless good cause is shown for the noncompliance". If you have not complied, then come prepared to the next compliance conference with affidavits, plane tickets, death certificates or proof of hospitalization to prove any claimed "good cause".

(16) Non-specific statements such as "all discovery not yet provided" or "unless otherwise provided" or "to the extent not yet provided" will not preserve any rights. Each attorney is expected to know what has been provided and what has not. See Rule IV(B)(2) above about bringing a list of all outstanding and requested discovery to every conference and waiver of discovery.

**Trial Rules for the Part will be provided to attorneys prior to trial.**

**HON. LISA A. SOKOLOFF** Part 21 Transit, **Courtroom:** 80 Centre Street, Room 279, Chambers: 646-386-4647 New York, NY 10013

**Principal Court Attorney:** Judith Rifkin, Esq., [jrifkin@nycourts.gov](mailto:jrifkin@nycourts.gov)

**Part Clerk/Courtroom:** 646-386-3738

Fax: There is no fax machine for this Part. Papers should be e-filed, emailed to the Part Clerk or delivered to the courtroom.

**General**

- a) Ex parte communications are not permitted. Communications regarding procedural questions and/or issues should be directed to the part clerk.
- b. Letters or emails seeking affirmative relief will not be considered and will be rejected.
  - c. Do not carbon copy the court on correspondence between counsel.
- d. The court will not entertain telephonic conferences regarding discovery disputes or make rulings via telephone.

**Conferences**

- a. Preliminary, Compliance and Status conferences are scheduled for Thursdays only. The Court has a staggered calendar beginning at 9:30 A.M. and 2:15 P.M.
- b. Cases are conferenced when all sides are present.

**Motions**

- a. All Orders to Show Cause will be heard on Thursdays 10:00 a.m. on the return date, unless otherwise provided for by the court. If a party seeks a temporary restraint in an Order to Show Cause, they MUST appear with the affected adversary or provide proof that their adversary was notified about the time and place that the application will be presented for signature.
- b. Appearances and oral argument are required on all Orders to Show Cause. All Orders to Show Cause must be first processed through the Ex Parte Motion Office, 60 Centre Street, Room 315.
- c. All Notices of Motion (but not Notices of Cross Motion) are returnable in the General Clerk's Office Submissions Part, 60 Centre St. Room 130. Adjournments of those motions are to be addressed to the General Clerk's Office, Motion Support, not the Part. Motions will be decided without argument or rescheduled for oral argument on a case-by-case basis.
- d. **Discovery related motions, other than those to strike the Note of Issue, shall not be made without permission of the court. Parties seeking relief must contact the part clerk by email, with notice to all parties, requesting a conference to resolve the dispute.**
- e. **All parties or their attorneys are expected to appear at oral argument on Motions and Orders to Show Cause, even if they are not objecting or filing opposition papers.**
- f. "Courtesy" or working copies of e-filed motions are not required and should not be provided to the part unless requested.
- g. Letters should not be sent to the Court concerning a motion after the motion has been marked submitted (see Rule 14[c]).

**Adjournments**

- a. A court appearance may be adjourned on consent, provided all parties who have appeared in the action sign a stipulation to that effect and deliver it to court via e-filing, email or in-person by 2:30 P.M. the day before the appearance is scheduled. The stipulation is still subject to court approval and it must include: [1] the reason for the adjournment and [2] the proposed date for the conference. If there is no consent, the scheduled date must be honored and counsel must appear to make an oral application for the adjournment.
  - b. Please clear the new adjourn date with the Part Clerk before filing the stipulation.

**Note of Issue**

The Note of Issue may be filed and a future compliance conference dispensed with provided all parties who have appeared in the action stipulate in writing that all discovery has been completed. This stipulation must be sent to the court via e-filing, email or in-person by 2:30 p.m. the day before the appearance is scheduled.

**Trials**

- a. Trials are scheduled to proceed day-by-day until completed. Trials will not be held on Thursdays unless the jury is deliberating.
  - b. Once a trial is assigned to Part 21, counsel are required to serve and submit the following:
    - i. marked pleadings;
    - ii. the bill of particulars;
    - iii. a witness list;
    - iv. expert disclosures;
    - v. pretrial memoranda (if applicable);
    - vi. proposed jury instructions (if applicable);
    - vii. proposed jury verdict sheet (if applicable); and
    - viii. a one paragraph summary of the parties' contentions.
  - c. Parties must have copies of exhibits for the court and for each adversary.
  - d. All parties are encouraged to have their exhibits pre-marked by the court reporter.

**HON. ALEXANDER M. TISCH, IAS Part 18, E-File Part, 111 Centre Street, Room 623, New York, NY 10013**

Part Clerk: Jack Wong 646-386-3472  
Principal Law Clerk: Rena Malik, Esq.  
Assistant Law Clerk: Erika Pedersen

### **Motions & Preliminary, Compliance, and Status Conferences**

After the final appearance in the Submissions Part, the motion may be scheduled for oral argument at the Justice's discretion. If oral argument is scheduled, you will be notified electronically and the appearance will indicate "IAS Part 18."

Motions scheduled for oral argument and all conferences in IAS Part 18 will be held on Wednesday mornings at 9:30 AM.

Failure to appear by 11:30 am at any scheduled conference will be considered a default subject to sanctions.

There is no calendar call.

For motions only, please check-in with the Part Clerk.

For conferences, please confer with all parties, fill out the preliminary conference order, compliance conference order, or stipulation, and present it to the Part Clerk or Court Officer. Do not leave the courtroom until the Court has reviewed your completed forms. If counsel must appear in another part, notify the Part Clerk and all other parties, and provide a telephone number at which you may be reached on the court calendar outside of the courtroom.

### **Withdrawing Motions**

If you wish to withdraw a motion pending in the Submissions Part, e-file the stipulation or letter from the movant to withdraw the motion under the appropriate motion sequence number. For further inquiries, notify the Submissions Part (60 Centre Street, Room 130, 646-386-3030) and/or contact the e-filing resource center at the same number or [efile@nycourts.gov](mailto:efile@nycourts.gov).

If you wish to withdraw a motion that is pending in Part 18 (after submission in room 130, whether or not oral argument has been scheduled), please e-file the stipulation or letter from the movant withdrawing the motion and advise the Part 18 Clerk in writing immediately.

### **Adjournments**

Motions Returnable in the Motion Submissions Part (Room 130 of 60 Centre Street): Requests to adjourn motions returnable in the Motions Submissions Part must be made by contacting that particular Part (646-386-3030). However, if you require a so-ordered stipulation to adjourn a motion in the Submissions Part, see "Items to be 'So-Ordered'" below.

Please do not communicate with chambers by any means concerning adjournments of a matter. **ALL requests for adjournment of Part 18 appearances are to be directed to the Part Clerk.**

Where all parties are amenable to adjourning oral argument or a conference, contact the Part 18 Clerk for approval, and follow-up with a hard copy of the stipulation of adjournment via hand delivery or e-mail to the Part Clerk at [jwong@nycourts.gov](mailto:jwong@nycourts.gov). The stipulation must also be e-filed.

A stipulation to adjourn a conference or motion scheduled for oral argument must indicate the reason for the adjournment.

Such stipulation must be sent to the Part Clerk and e-filed at least 1 business day before the scheduled appearance. (Be mindful of court holidays). Any stipulation received less than 1 business day before the scheduled appearance may not be entertained by the Court, except in emergency situations. Parties not in compliance may be defaulted for nonappearance. In such situations where the parties have not provided a timely request, the parties should appear and make an in-person application for the adjournment to the extent possible.

If the parties are unable to consent to an adjournment, the parties should contact the Part Clerk to request a conference call with the Court. Alternatively, the parties may appear at the scheduled appearance and make an application for the adjournment before the Court.

### **Papers**

This is an e-file Part. Working copies are not required.

If reliance is placed on a decision or other authority not officially published or readily obtainable by the Court, a copy of the case or pertinent portions of the authority shall be submitted with the motion papers.

No sur-reply papers. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Submission Part (Room 130), or after argument in Part 18, if any, except with the advance permission of the court. Materials submitted in violation of this rule will be disregarded by the court.

Each document or exhibit submitted electronically shall be separately filed and described in the "Additional Document Information" section when uploaded to NYSCEF (e.g., Exhibit A, Bill of Particulars; Exhibit B, 50-h Transcript), so that it is known what document is without the need to open it. Failure to comply with this provision may result in rejection of the filing.

### **Discovery Motions**

The parties may not file a motion relating to discovery without Court leave. Prior to filing a discovery motion, and after good faith efforts to resolve the discovery issue(s), the parties are required to confer with the Court regarding the issue(s) to be raised by the motion. If, after the parties confer with the Court, it is necessary for a discovery motion to be made, the movant must set forth in its affirmation of good faith not only the efforts it made to resolve the disputed issue(s), but also precisely when and by whom it was granted leave to file the motion.

### **Communications**

**No ex parte communications.** Please do not call or e-mail Justice Tisch or his staff unless all parties participate in the communication. Do not copy the Court on letters exchanged between counsel; all such communications will not be entertained. Correspondence may be e-filed for the Court's future reference.

Please do not call Chambers or the Part 18 Clerk to ask whether a decision has been issued or when a decision is expected to be issued. All decisions and orders are scanned and available on the internet (NYSCEF, eCourts or SCROLL).

### **Settlement**

Parties may request a pre-note settlement conference by calling the Part Clerk.

If a case has settled while a motion is pending (or at anytime), or if you wish to withdraw the motion (after submission in room 130 and before oral argument), please advise the Part 18 Clerk in writing immediately.

### **Items to be "So-Ordered" and/or requires Justice Tisch's signature**

Such items include, inter alia, stipulations, subpoenas, transcripts, and proposed orders and judgments. A hardcopy may be brought directly to the Part. If these documents are e-filed, the parties must promptly notify the Part Clerk of such filing and request for so-order.

### **Orders to Show Cause (OSC)**

OSCs must be e-filed and accepted by the Ex Parte office (646-386-3125) prior to submitting the order for Justice Tisch's signature. Once approved by the Ex Parte office, the movant must bring the motion folder and a hard copy of the OSC directly to Part 18 to have the OSC signed.

OSCs will generally be scheduled for oral argument on a Wednesday morning, unless exceptional circumstances warrant otherwise.

### **Trials**

At the pre-trial conference, the parties should provide the Court with the marked pleadings and bills of particulars, all relevant prior decisions and orders, and motions in limine.

Preliminary requests to charge are desired.

Post-trial motions shall be made within 15 days after verdict (CPLR 4405).

**HON. LILLIAN WAN** IAS Part 18, Room 111 Centre Street Room 731 Courtroom phone: (646) 386-5216 Chambers phone: (646) 386-5275

Principal Law Clerk: Deborah Santelmo, Esq.

Assistant Law Clerk: Michael McNichol, Esq.

Part Clerk: Charmayne Moss

**NOTE: THIS PART REQUIRES HARD COPIES OF MOTION PAPERS TO BE SUBMITTED TO THE PART CLERK IN COURTROOM 731.**

**Oral Argument on Motions:** Thursdays commencing at 9:45 a.m.

**Conferences:** Thursdays at 9:45 a.m.

## **1. Communications with the Part Clerk and Chambers**

### **A. Scheduling Matters and Requests for Adjournments:**

- i. Please do not communicate with chambers by any means concerning adjournments of a matter. **ALL** requests for adjournment are to be directed to the Part Clerk.
- ii. A preliminary or compliance conference may be adjourned **once** on consent for no more than 30 days. **A stipulation agreeing to the adjournment must be e-filed and a copy of the stipulation must be filed with the Part Clerk at least 24 hours in advance of the conference date either by hand delivery or email at [cmoss@nycourts.gov](mailto:cmoss@nycourts.gov).** Any adjournment by stipulation submitted less than 24 hours prior to the scheduled conference must be approved by the Court and parties not in compliance may be defaulted for nonappearance. Further adjournments require Court leave.
- iii. For all motions pending in the Submissions Part (60 Centre Street, Rm. 130), follow that part's rules regarding adjournments, scheduling, and withdrawals.
- iv. After motions are fully submitted in the Submissions Part, they are forwarded to Justice Wan's Part, and placed on the Court's motion calendar.
- v. Requests for adjournment of a motion must be made upon consent of all parties by stipulation 24 hours in advance. The stipulation must be e-filed and either hand delivered or e-mailed to the Part Clerk at [cmoss@nycourts.gov](mailto:cmoss@nycourts.gov). Requests for adjournment of a motion made on the day of oral argument will not be entertained unless all parties are present and consent to the adjournment, except in emergency situations. **Adjournments by stipulation of a motion received less than 24 hours in advance of the oral argument date will not be accepted and you may be defaulted for non-appearance.**

vi. Parties can request a pre-note settlement conference by calling the Part Clerk.

**B. No ex parte communications.** Please do not call or e-mail the Justice or her Court Attorney. Do not copy the Court on letters and documents exchanged between counsel. Such communication will not be entertained.

i. If specifically instructed to call chambers regarding a pending matter, such call may be placed only by attorneys or pro se parties if not represented by an attorney. No law office employees, assistants or aides may call chambers. Please be sure all parties are on the line before conferencing with the Judge or Court Attorney.

ii. A letter or e-mail may be sent to the Court only in the following situations:

- a. to advise the Court that a case has settled;
- b. a motion is withdrawn in whole or in part;
- c. the parties were granted leave to do so by the Court.

iii. If a motion has been withdrawn or the case has been settled or otherwise discontinued, please notify the Part Clerk immediately and e-mail a stipulation executed by all parties.

iv. **DO NOT** call the Part Clerk or chambers for a status update or to ask whether a decision has been issued. All decisions and orders are scanned and available on the internet (eCourts or SCROLL).

**C. Other Matters.** Parties are not permitted to call chambers for a ruling during a deposition. The question or questions objected to should be marked for a ruling and the dispute will be resolved by way of a motion. In the alternative, the parties may call the Part Clerk to schedule a conference for the next calendar conference day to resolve the issues.

**II. MOTION PRACTICE - THE PARTIES MUST SUBMIT WORKING COPIES OF THE MOTION PAPERS TO THE PART CLERK, COURTROOM 731 AT 111 CENTRE STREET**

A. All motions, except Orders to Show Cause, shall be made returnable to the Motion Support Office Submission Part Room 130, 60 Centre Street. Motions submitted on default in Room 130 are generally not scheduled for oral argument.

B. Generally, motions with opposition will be scheduled for oral argument for the next available Thursday commencing at 9:45 a.m. Motions submitted without opposition are generally not scheduled for oral argument.

C. There is no calendar call. When all parties are present on a motion, notify the Part Clerk, and the case will be called for argument.

D. Motion Sequence Number: the first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper right corner.

E. Counsel should not submit a single .pdf file under a single document number for all papers submitted on a motion. Each e-filed document must have its own respective document number (e.g. Doc #10, Notice of Motion)

i. Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations to the exact page within the exhibit. Each exhibit must have **protruding** exhibit tabs identifying the exhibit.

ii. All exhibits electronically submitted must be described in the heading of the attached exhibit (e.g. Exhibit A – Bill of Particulars), so that it is known what document is filed in the exhibit.

iii. Exhibits in excess of 50 pages shall be submitted on a CD or thumb drive which is attached to the hard copy of the motion papers, and the Part Clerk should be advised of the submission.

iv. Memoranda of law must be bound separately from other papers.

F. Unless advance permission is granted by the Court, memoranda of law and affirmations/affidavits shall not exceed 25 pages (exclusive of table of contents and authorities). Reply affirmations shall not exceed 15 pages. All submissions must be in 12-point font and double-spaced line format.

G. Any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions". While the entire transcript must be provided, the failure to follow this rule may result in the denial of the motion with leave to bring it again upon proper papers, but only so long as any deadlines have not already passed – that is, your time will not be extended.

H. As with deposition transcripts, any reference to any other voluminous exhibits annexed to a motion must include pinpoint citations so that the exact location within the exhibit can be easily located. For example, a citation to a hospital record should be identified as "see [hospital] record, exhibit A, page 5"; it should not just refer the Court to the exhibit as a whole.

- I. Once motions are fully submitted, the Court will not allow further submissions. Letters to the Court after oral argument or full submission regarding a pending motion that was fully submitted will not be accepted.
- J. Sur-replies are not permitted.
- K. Any party seeking injunctive relief with an Order to Show Cause must appear with the affected adversary or proof the adversary was notified but declined to appear when the application is made.
  - i. Orders to Show Cause will be returnable in the Part. Absent an emergency, an Order to Show Cause may not be adjourned.
  - ii. As per Rule 202.7(f) of the Uniform Rules, any application for temporary injunctive relief, including a temporary restraining order, shall be made on at least 24-hours notice to the adversary, absent a showing of significant prejudice.
- L. All motions to renew or reargue must contain all papers submitted on the original motion and a copy of the Court's decision. There is no oral argument on these motions.
- M. If reliance is placed on a decision or other authority not officially published or readily obtainable by the Court, a copy of the case or pertinent portions of the authority shall be submitted with the motion papers.
- N. **Discovery Motions:** Discovery motions are strongly discouraged.
  - i. If a discovery dispute arises, any party, in lieu of filing a motion, should request an expedited conference by calling the Part Clerk. Conferences requested on an expedited basis will be granted only at the Court's discretion. Discovery motions will only be permitted by leave of Court after a conference has been had with the Court and the parties.
- O. **Summary Judgment Motions:** All Summary Judgment motions must be made **no later than 120 days after filing the note of issue**. Counsel's affirmation in support must include the note of issue filing date. Discovery must continue while any CPLR §3212 motion is pending.
- P. **Other Submissions:** The Court must be provided with copies of any documents which require so-ordering or signing, including *inter alia*, proposed orders and judgments, transcripts and stipulations. If these documents are e-filed, the parties must promptly notify the Court of such filing.
  - i. Interrogatories are limited to 25 questions, inclusive of subparts.

### **III. CONFERENCES**

- A. Counsel attending conferences are expected to be familiar with the case and have authority to discuss and stipulate to resolve all disclosure issues. Appearances by counsel without authority may be deemed a default.
- B. There is no calendar call. When all parties are present, please fill out a stipulation or preliminary conference order with dates for completing discovery. DO NOT fill in that part of the order that asks for the end date of discovery, impleader deadline, future conference date, and note of issue. These dates will be provided by the Court Attorney at the conference.
- C. Do not leave the courtroom until the Court has reviewed your completed forms. If counsel must appear in another part, notify the Part Clerk and all other parties, and provide a telephone number at which you may be reached on the court calendar outside of the courtroom.
- D. At each compliance conference, counsel must bring a list of all outstanding discovery, as well as prior conference orders and stipulations.

### **IV. TRIALS**

- A. Upon the first appearance before this Court, the parties must furnish the following:
  - i. A list of proposed witnesses, including the need for any interpreters with the required language and dialect.
  - ii. An estimate of required trial days;
  - iii. A list of any scheduling conflicts with the trial.
  - iv. All marked pleadings and bills of particulars.
  - v. All prior decisions in the case, including any appellate decisions.
  - vi. Any notices to admit.
  - vii. Copies of EBT's intended for use at trial for any purpose.

- viii. If necessary, a trial memorandum, not to exceed four (4) pages, briefly setting forth the party's position and the relevant factual and legal issues to be tried, citing relevant case law.
- ix. Two (2) business cards for each attorney.
- x. For jury trials:
  - (a) Proposed jury instructions. If the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI numbers will suffice. If a PJI instruction is not verbatim or requires characterization or description of the evidence or the parties' contentions, or if the language is not based on the PJI, the exact requested language, together with the authority for it, must be submitted in .docx format to the Court and to opposing counsel **simultaneously**. Hard copies are to be provided to the Court as well.
  - (b) Proposed jury verdict sheet must be submitted in .docx format to the Court and to opposing counsel simultaneously. Hard copies are also to be provided to the Court.
  - (c) Prior to the start of trial, the parties must furnish all *in limine* or other applications. All motions *in limine* must be presented in writing to the Court as soon as practicable or as specifically scheduled at any pre-trial conference, with a copy to all parties. Any such motion or application must include citations to relevant authority. The memoranda of law and affirmation/affidavits are limited to 8 pages each.
  - (c) **All exhibits are to be pre-marked for identification prior to the commencement of trial.**
  - (d) It is the duty of counsel to ensure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre

Street.

**Listing of Parts in Numerical Order and Justices Assigned (excluding Commercial)**

1	<b>Shulman</b>	<b>21</b>	<b>Sokoloff</b>	<b>42</b>	<b>Bannon</b>
2	<b>Freed</b>	<b>22</b>	<b>Silvera</b>	<b>43</b>	<b>Reed</b>
4	<b>Nervo</b>	<b>23</b>	<b>Perry</b>	<b>44</b>	<b>Hoffman</b>
5	<b>Saunders</b>	<b>24</b>	<b>Katz</b>	<b>46</b>	<b>Billings</b>
		<b>25</b>	<b>Wan</b>		
6	<b>Rakower</b>	<b>26</b>	<b>Rosado</b>	<b>47</b>	<b>Goetz</b>
7	<b>Lebovits</b>	<b>28</b>	<b>Feinman</b>	<b>51</b>	<b>Cooper</b>
8	<b>Kotler</b>	<b>29</b>	<b>Kalish</b>	<b>52</b>	<b>Frank</b>
9	<b>Sattler</b>	<b>30</b>	<b>Heitler</b>	<b>55</b>	<b>d'Auguste</b>
10		<b>31</b>	<b>Drager</b>	<b>56</b>	<b>Kelley</b>
11	<b>Madden</b>	<b>32</b>	<b>Bluth</b>	<b>57</b>	
12	<b>Jaffe</b>	<b>33</b>	<b>Chan</b>	<b>58</b>	<b>Cohen</b>
13	<b>Mendez</b>	<b>34</b>	<b>Marin</b>	<b>59</b>	<b>James</b>
				<b>62</b>	<b>Rodriguez</b>
14		<b>35</b>	<b>Edmead</b>	<b>63</b>	<b>Kennedy</b>
15	<b>Crane</b>	<b>36</b>	<b>Ling-Cohan</b>	<b>J-Med</b>	<b>McMahon</b>
17	<b>Hagler</b>	<b>37</b>	<b>Engoron</b>		
		<b>38</b>	<b>Nock</b>		
18	<b>Tisch</b>	<b>40TR</b>	<b>McMahon</b>		
19	<b>O'Neill-Levy</b>	<b>40 TASP</b>	<b>Heitler</b>		
20	<b>Kaplan</b>	<b>41</b>	<b>Cannataro</b>		

**MMSP McKeon**  
**IDV Dawson**

**MFP McMahon**  
**FAP McMahon**

**THE JUSTICES OF THE SUPREME COURT,  
CIVIL BRANCH, NEW YORK COUNTY**