

**SUPREME COURT JUSTICE BRUCE E. TOLBERT
111 DR. MARTIN LUTHER KING, JR. BLVD.
COURTROOM 1601**

**Part Clerk: Kamal Brown 914-824-5623
Law Secretary: Renée S. Motola, Esq. 914-824-5436
Secretary: Dorothy Tavolacci 914-824-5435
FAX Number: 914-995-4010**

Motion Practice

Return Date:

Motions shall be made returnable at the Westchester County Courthouse 111 Dr. Martin Luther King Jr., Blvd. White Plains, New York on **Fridays at 9:30 A.M.** Motion papers are to be submitted to the Court. The Court does not accept papers of any sort by fax unless expressly indicated by the Court. The usual CPLR provisions with regard to motion practice will apply. Appearances are not required or expected, unless expressly indicated by the Court. In those instances in which a motion is brought by Order to Show Cause, the motion return date, the necessity of appearances and all other document return dates shall be determined by the Court.

Requests for Oral Argument:

Oral argument will be granted, subject to the Justice's calendar, if requested by the initiating party by prominent request made at the top right hand portion of the order to show cause or notice of motion/petition, or if so requested in the same fashion by opposing counsel or party in the responsive papers. Call the Part Clerk at least 3 days before the return date to ascertain the Court's calendar and whether oral argument will occur.

Adjournments:

Adjournments of motions is governed by 22 NYCRR 202.8(e) which provides: "(e)(1) Stipulations of adjournments of the return date made by the parties shall be in writing and shall be submitted to the assigned judge. Such stipulation shall be effective unless the court otherwise directs. No more than three stipulated adjournments for an aggregate period of 60 days shall be submitted without prior permission of the court. (2) absent agreement by the parties, a

request by any party for an adjournment shall be submitted in writing, upon notice to the other party, to the assigned judge on or before the return date. The court will notify the requesting party whether the adjournment has been granted."

All Adjournment requests must be in writing directed to the Part Clerk for submission to Chambers for consideration. Where exigent circumstances exist, an application for an adjournment may be made via fax to the attention of the Law Secretary.

Papers Required on a Particular Motion:

1) On any motion seeking summary judgment dismissal of a complaint, cross-claim or counterclaim, or the striking of a pleading, copies of all pleadings filed as of the date of the motion must be provided to the Court by the moving party. The failure to comply with this requirement shall result in the denial of the motion unless the pleadings are provided to the Court by another party.

2) On any motion seeking leave to renew or reargue a prior motion, copies of all papers submitted on the prior motion must be provided to the Court by the moving party. The failure to comply with this requirement shall result in the denial of the motion unless the papers on the prior motion are provided to the Court by another party.

STAMPED, SELF-ADDRESSED ENVELOPES MUST BE ATTACHED TO EVERY MOTION AND OPPOSING PAPERS OR DECISIONS WILL NOT BE MAILED.

E- FILING RULES AND PROTOCOL

All parties should familiarize themselves with the **Statewide E-Filing Rules** which can be found in Uniform Rules Sections 202.5-b and 202.5-bb and found at www.nycourts.gov/efile

The Westchester County E-Filing Protocol is available at:

<http://www.courts.state.ny.us/courts/9jd/efile/WestchesterCountyJointProtocols.pdf>.

General questions about e-filing should be addressed to the E-Filing Resource Center at telephone number 646-386-3033 or via email at:

efile@courts.state.ny.us

Specific questions relating to local procedures should be addressed to the Civil Calendar Office (914)824-5300.

ELECTRONIC FILING

All matters in this part are to be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including motion submissions,

proposed Orders to Show Cause, proposed orders and judgments, stipulations, transcripts and letters, must be electronically filed.

WORKING COPIES

This Part requires the submission of "working copies" of electronically filed documents. See Uniform Rule Section 202.5-b(d)(4). **This part requires working copies for all electronic submissions including motion submissions, proposed Orders to Show Cause, proposed orders and judgments, stipulations, transcripts and letters. All working copies shall be delivered to the Part Clerk.** This rule pertaining to working copies can only be modified upon this Court's approval.

DIFFERENTIATED CASE MANAGEMENT PROTOCOL PART RULES

On September 14, 2009 Differentiated Case Management Protocol came into effect for the Westchester County Supreme Court. They are broken down into **Preliminary Conference Part Rules, Compliance Part Rules, Settlement Conference Part Rules and Trial Ready Part Rules.** All of these Part Rules must be reviewed, understood and followed by all counsel and litigants before this Court.

TRIALS

Prior to the commencement of a trial, counsel shall provide the Court with:

1) Marked Pleadings, and; 2) an Exhibit List: The attorneys are to pre-mark their exhibits. The reporter is to be provided with an exhibit list. Material to be used on cross-examination need not be listed.

Requests to charge shall be submitted to the Court as directed. The charge(s) will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted. Unless counsel seek a deviation from the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted, together with any supporting legal precedents. All submissions must be served upon opposing counsel.

Verdict Sheet :

Counsel Shall jointly prepare a verdict sheet.

Which shall be submitted to the Court concurrently with the requests to charge. The verdict sheet is to be typed and in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet. If it is feasible, such proposals shall also be submitted on a computer disk in a format convertible to Word Perfect 8.0.

GENERAL

Counsel who appear must be fully familiar with the case and have authority to enter into any agreement, either substantive or procedural, on behalf of their clients. Counsel must be on time for all scheduled appearances and must bring sufficient material to allow for meaningful discussion of unresolved issues at each court appearance. Sanctions may be imposed for failure to comply with this rule.

If an action is settled, discontinued, or other wise disposed, counsel shall immediately inform the Court by submission of a copy of the stipulation or other document evidencing the disposition.

It is this Court's intention to help litigants resolve their disputes in a fair and equitable manner. Should the attorneys have need of the Court's assistance at any time a conference with all parties and counsel present in person or by telephone can be arranged through the Court's Law Clerk. Attorneys are reminded, however, that ex parte communications to the Court are prohibited by the CPLR and the Code of Professional Conduct.