

JUSTICE J. EMMETT MURPHY

111 Dr. Martin Luther King Jr. Blvd.
White Plains, NY 10601
Courtroom 1400

Phone: (914) 824-5733 (Chambers)
(914) 824-5372 (Part Clerk)

Fax: (914) 995-4010 (Chambers)
(914) 995-4396 (Part Clerk)

COMPLIANCE CONFERENCES:

This Part does not conduct compliance conferences (*see Westchester Supreme Court Differentiated Case Management Protocol Part Rules* effective September 14, 2009). Please contact Carolyn Carpenito, Room 800, at (914) 824-5344 or ComplianceWestchester@courts.state.ny.us as to matters of discovery.

SETTLEMENT CONFERENCES:

This Part does not conduct settlement conferences (*see Westchester Supreme Court Differentiated Case Management Protocol Part Rules* effective September 14, 2009). Please contact Robert Arena, Room 1201, at (914) 824-5339.

MOTIONS:

After a case has been assigned to this Part, prior to the bringing of any motion, with the exception of dispositive motions made after the note of issue is filed, movant shall notify the Court, in writing, with a copy to all parties, setting forth the relief sought and the basis for that relief. The Court will schedule a conference call with counsel or a Court conference date. This procedure does not preclude the moving party from making a motion, but provides the Court with an opportunity to resolve the dispute giving rise to the motion without need for a formal written application. Failing the resolution of the dispute, or if the Court in its discretion does not schedule the call or conference within ten days of mailing, then the party seeking the relief may proceed with the motion.

Motions will be returnable on Wednesdays except by order of the Court.

Appearances are not required on the return date. Oral argument may be requested by noting, "Oral Argument Requested" immediately over the index number on the Notice of Motion or Order to Show Cause.

If the Court, in its discretion, requires such oral argument, counsel for the movant will be advised and will be required to notify all parties.

Sur-replies will not be considered unless the Court directs otherwise. If new issues are raised in the reply, or if there has been a change in the law while the motion has been pending, counsel are to advise the Court, in writing, of the request to submit additional affidavits or memoranda. Other papers, including letters, which are sent after the submission date on the motion, will not be considered.

If, in advance of the motion return dates, the parties resolve any or all of the issues in dispute, movant shall immediately notify the Court Clerk in writing. An unexcused failure to inform the Court of a settlement, resulting in the expenditure of court resources, will subject the movant to sanctions.

ADJOURNMENTS:

On Consent: Catherine Richey, Part Clerk is to be advised by telephone ([914]-824-5260), followed by a letter, that the motion is adjourned on consent. A copy of this letter is to be sent to all parties. No more than three adjournments, for an aggregate period of sixty (60) days, will be granted by the Court without prior permission of the Court. The cooperation of counsel is urged.

Opposed: The application for an adjournment must be made in person on the return date of the motion. Any party wishing to be heard in opposition to the request for an adjournment must appear in person. Alternatively, the application for adjournment may be made via a conference telephone call with all parties and the law clerk. In either event, the requesting party must advise all other parties that the application for an adjournment will be made.

TRIALS:

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

- a) Marked pleadings, and
- b) An exhibit list. Material to be used on cross-examination need not be listed. The attorneys are to pre-mark their exhibits. Only those received in evidence will be marked by the reporter. The reporter is to be provided with an exhibit list.

Requests to charge:

Requests to charge shall be submitted to the Court as directed at a conference immediately preceding trial. The charge will be drawn from the Pattern Jury Instructions (PJI) to the fullest extent practicable. A complete list of requested charges is to be submitted. Unless counsel seek a deviation from the pattern charge or additions to the pattern charge, only the PJI numbers and topic headings need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted, together with any supporting legal precedents. In addition, such proposals shall be submitted by e-mail to Anne Minihan, the Court's Law Clerk at aminihan@courts.state.ny.us in a format convertible to WordPerfect 8.0.

Verdict sheet:

Counsel shall jointly prepare a verdict sheet. 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. In addition, such proposals shall be submitted by e-mail to Anne Minihan, the Court's Law Clerk at aminihan@courts.state.ny.us in a format convertible to WordPerfect 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 meaningful discussion of unresolved issues to each Court appearance. Sanctions may be imposed for failure to comply with this rule.

Submission by fax will not be accepted except in an emergency and if the receipt has been authorized by Chambers. In cases not subject to e-filing rules and protocol, copies of letters confirming an adjournment of a motion or a conference may be sent by fax to Catherine Richey, Part Clerk at (914) 995-4396 with the original correspondence mailed to Court.

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

Counsel/parties shall address questions regarding scheduling appearances or adjourning appearances to Catherine Richey, Part Clerk (914) 824-5260.

E-FILING RULES AND PROTOCOL:

Counsel for all parties shall familiarize themselves with the statewide **E-Filing Rules** (see Uniform Rule §§ 202.5-b and 202.5bb, available at www.nycourts.gov/efile) and the **Westchester County E-Filing Protocol** 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 (646) 386-3033 or efile@courts.state.ny.us

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

ELECTRONIC FILING:

All documents filed in mandatory e-filed cases, except those documents which are subject to the “opt out” provision of § 202.5-bb of the Uniform Rules for the State of New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, are to be filed through the New York State Courts E-Filing System (NYSCEF). All submissions to the Court, including proposed orders, judgments and letters must be electronically filed.

WORKING COPIES:

The Court, which does not require the submission of working copies of electronically filed documents, may request the submission of working copies in specific instances (see Uniform Rule § 202.5-b[d][4]).

All working copies submitted MUST include a copy of the NYSCEF Confirmation Notice firmly fastened to the front cover page of the working copy submission and must comply with all of the other requirements set forth in the Westchester County Protocol. Working copies that do not include a NYSCEF Confirmation Notice will be rejected.

Working copies shall be delivered to Catherine Richey, Part Clerk, 14th Floor no later than 12:00

noon on the first business day following the electronic filing of the document on the NYSCEF site.

HARD COPY SUBMISSION:

This Court will reject any hard copy submissions in e-filed cases unless those submissions bear the **Notice of Hard Copy Submission – E-Filed Case** required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

These Part Rules shall be effective as of January 26, 2011.