

Hon. Lawrence H. Ecker, J.S.C.

Contact Information:

Address: Westchester County Courthouse
111 Dr. Martin Luther King, Jr., Boulevard
White Plains, New York 10601

Courtroom: 1602

Chambers Phone: (914) 824-5388

Chambers Fax: (914) 824-5885

Part Clerk Phone: (914) 824-5227

Part Clerk Email: jsjackson@nycourts.gov

Justice Ecker's Staff:

Principal Court Attorney: David L. Steinberg, Esq.

Assistant Law Clerk: Asher G Grossman, Esq.

Part Clerk: Janet Schiel-Jackson

Motion Day:

Wednesdays at 9:30 a.m.

Motions are on submission, unless the Court directs otherwise.

Please note: The Court encourages, and is available to facilitate, the settlement of all matters. Accordingly, in any case assigned to this Part, where all parties consent, they may contact chambers to request a conference for the purpose of resolving motions pending before this Court, or settling the entire matter. If the parties agree to attend a Court conference, this shall not serve to delay the submission date of any motion, nor as a stay of the proceedings.

Part Rules:

All attorneys are expected to be familiar with the Westchester Supreme Court Differentiated Case Management (DCM) Protocol Part Rules.

In addition, the following Part Rules are effective as of November 1, 2016 in all proceedings assigned to the Hon. Lawrence H. Ecker, J.S.C.:

I. General Rules

A. Appearances by Counsel with Knowledge and Authority: All counsel who appear before the Court must be familiar with the case and be fully authorized to enter into agreements as to both substantive and procedural matters on behalf of their clients. Attorneys appearing of counsel to the attorneys of record and self-represented parties shall be held to the same requirements. Failure to comply with this rule may be regarded as a default and dealt with appropriately. All counsel and self-represented parties must be on time for all scheduled appearances.

B. Settlements and Discontinuances: If an action is settled, discontinued, or otherwise disposed in any manner by the parties, counsel and self-represented parties shall immediately inform the Court by letter and by filing a Stipulation of Discontinuance with the County Clerk, or through NYSCEF in an e-filed case. The Court will not mark any matter settled unless it has received a copy of a Stipulation of Discontinuance, the original of which has been filed with the County Clerk.

C. Papers by Fax: The Court does not accept papers of any kind by fax transmission without prior Court approval. However, copies of letters confirming or requesting an adjournment of a motion or a conference may be emailed to the Part Clerk at jsjackson@nycourts.gov. The original of all correspondence shall be mailed to the Part Clerk and filed through NYSCEF in an efiled case.

D. Ex Parte Communications: *Ex parte* communications are strictly prohibited except upon consent of all counsel and self-represented parties, or with respect to scheduling matters, the presentation of Orders to Show Cause for signature, or where otherwise permissible by law.

E. Communications with Represented Parties: Counsel are directed to inform their clients that under no circumstances shall any represented party engage in any conversation or exchange any communication with the Court's staff (*see* CPLR § 321 [a]).

F. Scheduling: Counsel and any self-represented party should address questions about adjournments on motions, scheduling or adjourning appearances, and all other calendar matters to the Part Clerk, Janet Schiel-Jackson, at jsjackson@nycourts.gov.

II. E-Filing Rules and Protocol

A. E-Filing Rules and Protocol: Counsel for all parties shall familiarize themselves with the statewide E-Filing Rules (*see* §§ 202.5-b and 202.5bb of the Uniform Rules for the New York State Trial Courts, 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 Westchester County Supreme Court Civil Calendar Office at (914) 824-5300.

B. Working Copies: This Part requires one working copy of each motion, exhibit, letter, transcript, stipulation, and proposed order.

All working copies submitted MUST include a copy of of the NYSCEF Confirmation Notice firmly fastened to the working copy submission and must comply with all of the other requirements set forth in the Westchester County Protocol (*see* Uniform Rules for the New York State Trial Courts § 202.5-b [d] [3] [ii] and [4]). The Confirmation Notice is generated when the case is e-filed and is available in the specific case file at www.nycourts.gov/efile. Working copies that do not include a NYSCEF Confirmation Notice may be rejected. Working copies shall be mailed or hand-delivered so as to be received by chambers no later than the return date or notice of settlement date, or as otherwise directed or permitted by the Court. For convenience, working copies may be left in the designated basket for chambers on the 16th floor. Working copies are required as follows:

1. Foreclosure matters - This Part requires one working copy of the proposed order in cases where a party is seeking an order of reference or a judgment of foreclosure and sale.
2. Ex parte applications - This Part requires one working copy of the proposed order in cases where a party is seeking ex parte relief.

III. Motion Practice Rules

Motion Day: Wednesdays at 9:30 a.m.

Motions are on submission, unless the Court directs otherwise.

NOTICE: In the event the parties settle a motion or part of a motion before the motion return date or before a decision has been rendered, they shall immediately inform the Court in writing.

A. Form of Papers: All motion papers submitted to the Court, including Orders to Show Cause, must be legible and typewritten. Motion papers and all correspondence must indicate the sequence number of the motion and the index number of the case. Courtesy copies must include external exhibit tabs, with plaintiff using numbered exhibit labels, and defendants, and third parties using lettered exhibit tabs. In no event shall the same number or letter be used in the same motion sequence. The failure to comply with this requirement may result in the denial of the motion unless the pleadings are submitted to the Court by another party.

B. Papers Required on Particular Motions:

1. Motions Generally: For any dispositive motion, the moving party shall include copies of all pleadings filed as of the date the motion is filed. The failure to comply with this requirement may result in the denial of the motion unless the pleadings are submitted to the Court by another party.

2. Motions Seeking Leave to Renew or Reargue: On any motion seeking leave to renew or reargue a prior motion, the moving party shall submit copies of all papers submitted on the prior motion. The failure to comply with this requirement may result in the denial of the motion unless the papers on the prior motion are submitted to the Court by another party.

3. Motions for Leave to Amend, Supplement, or Correct Pleadings: On any motion for leave to amend, supplement, or correct a pleading, in addition to the proposed amended, supplemental, or corrected pleading, the moving party shall submit copies of all pleadings filed as of the date of the motion. The failure to comply with this requirement may result in the denial of the motion unless copies of the prior pleadings are submitted to the Court by another party.

4. Motions for Injunctive Relief: When an Order to Show Cause is to be presented to the Court which seeks injunctive relief, copies of the summons and complaint or petition commencing the underlying action must be provided to the Court by the moving party. The failure to comply with these requirements may result in the denial of the Order to Show Cause.

5. Default Motions: On any motion for a default judgment, proof must be presented that a military-status investigation of all defendants, when applicable, has been conducted.

C. Ex Parte Motions: The Court does not accept ex parte motions, unless they are motions for service by publication or other such unusual motions. All other motions, including motions for Orders of Reference and Judgments of Foreclosure and Sale, must be on notice.

D. Discovery Motions: Discovery motions are subject to and governed by the Westchester Supreme Court Differentiated Case Management Protocol Part Rules.

E. Pre-Note of Issue Summary Judgment/Dispositive Motions: Pre-note of issue summary judgment or other dispositive motions are subject to and governed by the Westchester Supreme Court Differentiated Case Management Protocol Part Rules.

F. Post-Note of Issue Summary Judgment/Dispositive Motions: Post-note of issue summary judgment or dispositive motions are subject to and governed by the Westchester Supreme Court Differentiated Case Management Protocol Part Rules. **Once a post-note of issue summary judgment or dispositive motion is filed, this court cannot grant an adjournment.**

G. Adjournments by Stipulation for Cases Assigned to this Part: A party seeking an authorized adjournment must contact all other parties in an effort to obtain consent and demonstrate such efforts to the Court. All requests for adjournments shall be in writing by email to the Part Clerk, Janet Schiel-Jackson, at jsjackson@nycourts.gov. No adjournment will be granted if not received at least 24 hours prior to the motion return date. Thereafter, the parties must appear on the motion calendar date to request the adjournment.

No more than three stipulated adjournments, for an aggregate period of no more than 60 days, are allowed, except with the Court's permission (*see* § 202.8 [e] [1] of the Uniform Rules for the New York State Trial Courts).

No motion shall be considered adjourned unless the Part Clerk, Assistant Law Clerk, or Principal Court Attorney has conveyed the Court's approval of an adjournment.

H. Orders to Show Cause: Orders to Show Cause submitted for signature shall be presented to the Calendar Clerk, after payment of any required fee at the County Clerk's Office. If the Order to Show Cause is signed by the Court, a copy of it shall be sent to counsel for the moving party or self represented party. If appearances are required on the return date of the motion, the Court will so indicate in the Order to Show Cause. Otherwise, no appearances shall be required and no oral argument shall be heard on the return date of the motion.

I. Requests for Temporary Injunctive Relief for Cases Assigned to this Part: When an Order to Show Cause is presented to the Court which seeks temporary injunctive relief, including but not limited to a stay or a temporary restraining order, counsel for the moving party or any self-represented party shall demonstrate compliance with 22 NYCRR §202.7 (f) of the Uniform Rules for the New York State Trial Courts, regarding notice to affected parties.

J. Proposed Orders: Any Proposed Order in foreclosure and other cases shall be submitted to the Court in a separate backer, rather than bound into motion papers.

IV. Trial Practice Rules

A. Trial Preparation: Prior to the commencement of a trial or hearing, counsel shall

ascertain the availability of all witnesses and subpoenaed documents, and notify the trial ready part of the need for interpreters and special services. Counsel for any party or any self-represented party who has issued subpoenas for the production of records shall request that the Part Clerk requisition all subpoenaed documents from the file room.

B. Pleadings and Submissions Due Immediately Upon Appearance: Immediately upon being assigned to this Part for a trial or hearing, counsel for each party and any self-represented party shall report to the Part Clerk and submit the following to the Court:

1. A statement of the estimated length of trial;
2. Marked pleadings and bills of particulars;
3. Prior decisions and orders;
4. A list of all witnesses who may be called at trial, including any potential rebuttal witnesses;
5. A list of all exhibits the party expects to use at trial, indicating whether such exhibits are stipulated for admission into evidence or are marked only for identification;
6. A written stipulation governing all facts that are not in dispute;
7. A copy of any statutory provisions upon which any party intends to rely;
8. All expert witness reports and disclosures exchanged between the parties; and
9. All reports, transcripts of examinations before trial, and written statements that may be used during trial.

C. Marking of Exhibits: After filing the above listed submissions with the Court, counsel and any self-represented party shall meet with the assigned Official Stenographer to pre-mark all exhibits for identification. Any exhibits whose admission is agreed upon by the parties shall be pre-marked for admission.

D. Conference: Immediately prior to the commencement of the trial, the Court shall conduct a conference with all counsel and self-represented parties to discuss preliminary matters. Counsel and self-represented parties shall:

1. Alert the Court to any anticipated in limine motions or evidentiary or legal issues they believe will arise during the trial.
2. Alert the Court as to any anticipated requests for a jury instruction relating to

missing witnesses or evidence.

3. Provide a proposed verdict sheet and requests to charge.

E. Jury Charges: In all jury trials, a complete list of requests to charge shall be submitted to the Court immediately preceding the commencement of trial, with copies to be provided to all counsel and self-represented parties. If a requested charge is drawn from the current Pattern Jury Instructions (PJI), only the PJI number and charge heading need be submitted. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedents. In addition such proposals shall be prepared in WordPerfect and e-mailed to the Court's Principal Court Attorney at: dsteinberg@nycourts.gov.

F. Verdict Sheet: At the commencement of the trial, counsel and any self-represented parties shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all parties. The verdict sheet shall be in a final, typewritten form. The proposed verdict sheet(s) shall be prepared in WordPerfect and e-mailed to the Court's Principal Court Attorney at: dsteinberg@nycourts.gov. The verdict sheet shall provide signature lines for each juror, stating yes or no, as to each interrogatory to be considered.