

## Practices for Part 56

### Motion Practice

1. With the exception of discovery motions, no prior involvement by the court is required prior to making a motion. Rule 24 letters are not required.
2. After compliance with Rule 14 of the Commercial Division rules whereby counsel has consulted with one another in a good faith effort to resolve all disputes, the parties may make a written request for a conference with the court.
3. Discovery disputes should first be addressed through a court conference prior to the filing of a motion. If the court is unable to resolve the dispute through a conference, then leave will be given for the parties to file the appropriate motion. The 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.
4. All papers submitted in connection with a motion must include the correct motion sequence number and be properly backed.
5. Rule 19 A statements are required for all summary judgment motions.
6. With respect to Rule 11(d) of the Commercial Division Rules, the presumption is that discovery is not stayed by the filing of a dispositive motion unless otherwise directed.
7. Oral argument shall be scheduled on all motions with only limited exceptions given at the sole discretion of the court. Parties are responsible for keeping apprized of scheduled argument dates on pending motions.
8. If directed by the court to order the transcript at the conclusion of oral argument, the parties shall do so, submit it to the Part, and split the costs incurred.

### Communications with the Court

9. Chambers will not communicate with a litigant ex parte.
10. A party seeking an adjournment of any scheduled appearance or court-ordered date, must receive court permission, even if all parties agree to the adjournment. Requests for adjournments or extensions of time must be made at least 2 business days prior to a scheduled appearance or deadline.
11. Inquiries regarding appearances may be directed to the Part Clerk, Mrs. Schmachtenberg, who can be reached at (646) 386-3262.
12. All written correspondence is to be mailed or delivered to chambers at 100 Centre Street, Room 1735. They may not be faxed without prior permission from the court.

### Discovery Conferences and Disputes

13. Compliance Conferences are held on Thursday afternoons beginning at 2:30 p.m.

14. Parties are to bring copies of all prior discovery orders to each court appearance.

### Electronic Filing and Courtesy Copies

15. All cases in Part 56 should be electronically filed through the Court's Filing by Electronic Means (FBEM) system. All submissions to the Court (including briefs, proposed Orders and judgments, and letters) should be electronically filed.

16. Parties must submit a hard copy set of all electronically filed motion papers to the Motion Support Office in Room 119.

17. Parties must submit one hard copy of letters and other non-motion submissions by mail or hand delivery to the Part.

### Mediation

18. If, at any point, the parties decide that they could benefit from Commercial Division ADR or other mediation, they should write a joint letter to the court asking to be referred to ADR or such other mediation. The parties are encouraged to familiarize themselves with the Guide to and Rules of the Alternative Dispute Resolution Program.

[http://www.nycourts.gov/courts/comdiv/ADR\\_overview.shtml](http://www.nycourts.gov/courts/comdiv/ADR_overview.shtml)

### Confidentiality Order

19. Any order regarding the confidential exchange of information shall be based on the Proposed Stipulation and Order for the Production and Exchange of Confidential Information, prepared by a committee of the New York City Bar Association for use in the Commercial Division, available on the Bar Association's website at :

<http://www.nycbar.org/pdf/report/ModelConfidentiality.pdf>

20. If the parties believe there is good cause to deviate from the model referred to in Rule 18, they must seek prior approval of the court. Requests must be made in writing and the reasons for the request must be clearly stated.

### Trial Rules

21. Pre-trial memorandum briefs are to be submitted in all matters at least 5 **business** days prior to the start date of trial.

22. No electronic media devices will be permitted absent express permission from the Court. Requests should be made to the Court in writing and the reasons for the request must be clearly stated.

23. No adjournments of the trial date will be granted absent exceptional circumstances and all requests must be made in writing to the Court and not by phone call to the Clerk of the Part.

24. All materials used during the trial must be removed within 48 hours of the conclusion of trial. All materials not timely removed will be discarded.

25. If the trial is by jury, counsel will be required to submit a proposed verdict sheet and proposed charges. All submissions must be made in hard copy and on disk in WordPerfect 8 format. The Court will set a date for the submissions at a time to be determined during the course of the trial.

#### Requests for Admission Pro Hac Vice

26. All requests for admission pro hac vice, whether made by motion or stipulation, shall be accompanied by an affidavit in 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.

27. The affidavit of the applicant must advise the court as to the total number of times the applicant has been admitted in New York pro hac vice. The affidavit must also advise the court whether he/she has ever been or is presently subject to a disciplinary proceeding.