

May 2015

**INDIVIDUAL PRACTICES OF
JUSTICE ANIL C. SINGH
PART 45**

SUPREME COURT
COMMERCIAL DIVISION
COURTROOM 218
60 CENTRE STREET
NEW YORK, NY 10007
PHONE: 646-386-3306
FAX: 212-618-5268

Law Clerks: John Hunka, Esq. and Erica Barrow, Esq.

The following rules serve to supplement the applicable CPLR and statewide Commercial Division Rules, except where indicated

1. Commercial Division Rules

All parties should familiarize themselves with the Commercial Division Rules, available at <http://www.nycourts.gov/rules/trialcourts/202.shtml#70>

2. Electronic Filing

All cases in Part 45 must 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) must be electronically filed. For FBEM instructions, contact the E-filing Support Center at (646) 386-3033 or efile@courts.state.ny.us, or see the Commercial Division's website for New York County at: <https://www.nycourts.gov/courts/comdiv/ny/newyork.shtml>

3. Scheduling and Adjournments

All scheduling of appearances or adjournments, and questions pertaining to scheduling, shall be addressed to the Part Clerk, via phone (646) 386-3306. Appearances will be at 60 Centre Street, Room 218. All adjournments of motions, conferences and trials require prior Court approval. Where all parties consent to an adjournment, counsel requesting the adjournment shall fax a copy to 212-618-5268 and e-file the stipulation. Requests shall be made to the Part Clerk no later than two (2) business days in advance of the scheduled appearance. Requests submitted after the deadline will be denied absent a showing of good cause. Please do not telephone chambers regarding adjournments.

4. Communications with Chambers

If necessary, counsel and pro se litigants may communicate with the Court by mail, fax, e-mail or telephone, more specifically as follows:

Written Correspondence. Hard copies of letters not exceeding three (3) pages in length may be mailed or hand delivered to the courtroom at 60 Centre Room: 218, or faxed to the Part Clerk at 212-618-5268. All letters concerning a substantive matter also must be electronically filed. Attachments may not exceed ten (10) pages in length. All correspondence to the Court shall be on notice to the parties and/or counsel.

Faxed Documents. Faxes of documents are permitted so long as they are followed by a hard copy, and are also electronically filed. Voluminous documents, if otherwise permitted, must be mailed or hand-delivered.

Telephone Conferences. Counsel and pro se litigants must call the Part Clerk at (646) 386-3306 to schedule a telephone conference with Chambers. Such calls generally will be scheduled after 4 p.m., and must be initiated by the callers. All counsel and pro se litigants must be on the call at the time assigned the Part Clerk.

Email: Law Clerk John Hunka may be reached at jhunka@nycourts.gov

Chambers will not communicate with counsel or a pro se litigant ex parte.

5. Motion Practice

Order to Show Cause (“OSC”): OSCs are returnable in Part 45. Applications for temporary injunctive relief pending the hearing of the OSC shall be on notice unless the movant can demonstrate significant prejudice. See 22 NYCRR §202.7(f)

Motion Sequence Numbers. Motion sequence numbers must appear on the cover pages of all motion papers; i.e., the notice of motion, memos of law, exhibits, affirmations, etc. The numbers shall also appear on all correspondence, faxes and e-mails to Chambers pertaining to motions.

Questions. Questions pertaining to motion practice should be addressed in the first instance to the Commercial Division Support Office at (646) 386-3020.

Prior Permission. Commercial Division Rule 24 letters are not required in Part 45.

Discovery Motions. Discovery disputes are to be addressed as follows: Adversaries are first to meet and confer in good faith. If they are unable to resolve the dispute, the parties shall contact our Part Clerk at (646) 386-3306 to schedule a telephone conference with Chambers. Such calls generally will be scheduled after 4 p.m., and must be initiated by the callers. All counsel and pro se litigants must be on the call at the time assigned by the Part Clerk. No later than two days before the conference, the parties may fax brief letters describing the dispute to Chambers. The letters must be single-spaced, may not exceed three pages, and must be e-filed. If the dispute remains unresolved after the conference, the aggrieved party may file an appropriate discovery

motion.

Discovery Not Stayed. Discovery is not stayed when a dispositive motion is filed unless the Court otherwise directs.

Dispositive Motions Deadline. Dispositive motions must be initiated not later than 60 days following the filing of the note of issue.

Motion Submission Papers. Without prior permission from the Court, no additional papers on a motion or a cross-motion will be accepted for filing after the papers in support (opening and reply), and in opposition to the motion are filed on the submission (return) date in the Motion Submission Part, Room 130.

Working Copy. The Court requires the submission of a working paper copy of the motion to the Motion Submission Part in Room 130 by the submission date.

Oral Argument. The parties shall state whether oral argument is requested. Oral argument shall be granted at the Court's discretion. Notice of the argument date will be transmitted to counsel by the Court.

Transcript. If oral argument is held, at its conclusion the movant is to order the transcript. The parties are responsible for both e-filing the transcript and submitting a hard copy to our Part Clerk, who will submit it to Chambers. The motion will not be deemed *sub judice* until a transcript has been received in Chambers.

6. Discovery.

Preliminary Conference. Prior to the scheduled Preliminary Conference, the parties shall meet and confer regarding all discovery issues raised in the Preliminary Conference (PC) Order, which can be accessed through a link appearing directly below the link to these Part Practices. The parties shall be prepared to discuss all issues raised by the PC Order, and in the meet-and-confer, at the PC. If the parties are not so prepared, the PC will be adjourned for no more than two weeks.

Interrogatories. Interrogatories are limited to 25 in number, including sub-parts, unless another limit is specified in the PC Order. This limit also applies to consolidated actions.

Privilege. The parties shall comply with Commercial Division Rule 11-b

Confidentiality Orders. Any order regarding the exchange of confidential information must be in the form of a stipulation to be "so ordered" by the Court, and the parties must use the Proposed Stipulation and Order for the Production and Exchange of Confidential Information, prepared by a committee of the Association of the Bar of the City of New York for use in the Commercial Division, accessed on-line at: <http://www.nycbar.org/pdf/report/ModelConfidentiality.pdf>. If the parties believe there is good cause to depart from this model, they should call our Part Clerk to schedule a telephone conference with Chambers.

Sealing. Documents filed with the court will not be sealed merely on the ground that they are subject to a confidentiality agreement. 22 NYCRR §216.1. Sealing must be requested by motion, or by letter if the request is made on consent or by stipulation.

Any party wishing to provide the Court with any motion paper, including any notice or memorandum of law, affidavit or declaration in support of such motion, that attaches, affixes, summarizes or excerpts Confidential or Highly Confidential information shall redact all such Confidential or Highly Confidential information before submitting the papers to the public file. On the appropriate return date, or on any other date ordered by the Court, a fully, unredacted copy of the motion papers shall be provided to the Court in Chambers labeled as follows: “Unredacted Chambers Copy – Redacted Copy Filed Pursuant to Court Order.” After such motion is decided, the Court may, in its discretion, return the “Unredacted Chambers Copy” to the moving party, who will be required to maintain such documents pending the final outcome of the action, including any appeals, after which time the documents shall be disposed of pursuant to Stipulation and/or Order.

Electronic Discovery. The parties shall comply with Rules 1(b) and 8(b) of the Rules of the Commercial Division, and Rules 202.12(b) and 202.12(c)(3) of the Uniform Civil Rules for the Supreme Court, and the requirements for e-filing set forth in the Preliminary Conference Order. The parties are also referred to Appendix A to the Rules of the Commercial Division.

Expert Disclosure. The parties are referred to Rule 13 of the Rules of the Commercial Division, and the Preliminary Conference Order.

7. Pre-Trial or Pre-Evidentiary Hearing Conferences

CONFERENCES (Preliminary, Compliance, Status, Pre-Trial)

- a. The Court will schedule conferences. All cases are heard in the order in which they are ready. All counsel must be present for the case to be deemed ready. Please check in with the Part Clerk when you have arrived.
- b. Counsel appearing shall be familiar with the case and have the authority to discuss all discovery issues and to participate in a settlement conference.
- c. Pending an appearance with the Court, counsel are advised to confer with each other and draft a preliminary or compliance conference order or stipulation providing for all remaining discovery. Discovery disputes will be resolved at the conference. Discovery orders/stipulations must set forth specific dates for all deadlines, including impleaders.

TRIALS AND EVIDENTIARY HEARINGS

- a. Trials are scheduled for a date certain. There shall be no adjournment of a trial unless counsel demonstrates good cause. Further, no continuance will be granted if a witness is unavailable to testify unless counsel demonstrates good cause.
- b. Counsel shall provide a list of exhibits that may be used at trial. Counsel shall pre-mark all the exhibits prior to trial. The exhibit list must state for each exhibit if that exhibit is

agreed to or disputed by the parties as admissible evidence. Exhibits that are agreed to by the parties as admissible evidence will be entered into evidence without objection upon introduction at trial. Court exhibits are roman numeral, plaintiff exhibits are numbered, and defendant exhibits are lettered.

- c. Counsel shall provide the Court with a copy of the exhibit books and any other documents offered into evidence.
- d. For jury trials, counsel shall submit to the Court at least five (5) calendar days prior to trial a witness list, proposed jury instructions, and a proposed verdict sheet. If the proposed jury instructions are verbatim from the Pattern Jury Instructions, providing the PJI numbers will be sufficient. If a PJI instruction is modified, exact language shall be submitted supported by appropriate authority.
- e. For non-jury trials, at least five (5) calendar days prior to trial, counsel shall submit a witness list, proposed findings of fact, and a pre-trial memorandum of law.
- f. For all trials, counsel shall submit marked pleadings and a copy of the bill of particulars. If a witness needs an interpreter, counsel shall notify Part 45 in writing seven (7) calendar days prior to trial. Please indicate the language and dialect.
- g. For all trials, the witness list must state whether each witness is a fact or an expert witness. If a witness is listed as an "expert," state whether the parties agree or dispute the witness's status as an expert for purposes of the trial.
- h. Motions in limine are to be submitted directly to Part 45 at least five (5) calendar days prior to the start date of trial.
- i. Parties shall provide witness lists, a glossary of names, and any unusual words and any acronyms they anticipate to be using during the trial to the Court reporter the morning that the trial is set to begin.

8. Inquest Procedures

A party requesting an inquest shall submit the following information or documents: An affidavit from a person with knowledge of the facts setting forth how damages are computed; and an attorney's affirmation setting forth a brief recitation of the facts and the grounds for liability. The affirmation also should discuss the damages incurred by the party.

Exhibits should be submitted in support of all requests for damages. For example, if the relief is attorneys' fees, the attorney's affirmation should include as an attachment the billing statements describing the activity, the identity and title of the person performing the activity, time, date, and billing rate. If the relief is for lost profits, financial statements for comparative time periods should be provided.

Whenever counsel believes it would assist the Court, affidavits from experts (i.e. accountants, appraisers, etc.) may be submitted.

Proof of service must be filed indicating that all papers and exhibits submitted to the Court were served on opposing parties. Proposed findings of fact and a proposed order must be e-filed. Papers in opposition shall follow the format set forth above.

9. Court's Discretion

One or more of these practices may be modified in the court's discretion where a variation is deemed appropriate due to the nature and relative complexity of the matter before the Court.