

**HON. JOEL M. COHEN**

**PART 3 – PRACTICES AND PROCEDURES**

**Supreme Court of the State of New York  
Commercial Division  
60 Centre Street, Courtroom 222  
New York, NY 10007**

**Part Clerk/Courtroom Phone: 646-386-3287  
Chambers Phone: 646-386-4927**

Principal Court Attorney:	Lauren A. Jones, Esq.
Court Attorney:	Jason H. Sugarman, Esq.
Commercial Division Law Clerk:	
Courtroom Part Clerk:	Michael O'Connor
Chambers email address:	sfc-part3@nycourts.gov

Courtroom hours are from 9:30 a.m. to 4:30 p.m.

Lunch recess is from 1 p.m. to 2:15 p.m, with the courtroom closed at that time.

Oral Argument on Motions: Tuesdays, Wednesdays, and Thursdays (scheduled by the Court).

Pretrial Conferences: As scheduled by the Court.

Preliminary, Compliance, and Status Conferences: Tuesdays beginning at 10:00 a.m.<sup>1</sup>

**I. GENERAL**

- A. These Practices and Procedures apply to all cases in this Part.
- B. All parties or their counsel must familiarize themselves with these Practice Rules and the Rules of the Commercial Division, 22 NYCRR 202.70, which are incorporated herein by reference.
- C. Neither Judge Cohen nor his court attorneys will speak to any attorney or litigant regarding any matter without all parties to the action present or on the phone.

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<sup>1</sup> To the extent practical, the conference for each case (or a small group of cases) will be assigned a specific time slot. To avoid delays, parties must be prepared to proceed promptly at their assigned time. Failure to do so may result in the conference being deferred until after all other hearings scheduled for the day have been conducted or adjourned to another date.

- D. Judge Cohen's law clerks only accept case-related phone calls between 3:00 p.m. and 5:00 p.m. Communications at other times should be directed to the Part Clerk or by email to Chambers at [sfc-part3@nycourts.gov](mailto:sfc-part3@nycourts.gov).
- E. Parties and counsel are advised that voicemail and email to Chambers or the Part are not substitutes for seeking relief through filings on NYSCEF. Given the volume of cases in the Part, parties and counsel should not assume that such communications have been heard or read unless they have received a response.
- F. Documents may not be submitted by fax.

## **II. SUBMISSION OF DOCUMENTS**

- A. Part 45 is an e-filing Part. Judge Cohen does not accept working/courtesy copies of documents, with the following exceptions:
  - 1. Documents for signature. Documents requiring Judge Cohen's signature, including proposed orders and stipulations, must be hand delivered to the Part promptly after e-filing. (Hard copies of proposed orders to show cause seeking expedited relief should include supporting materials.).
  - 2. Memoranda of Law. Two courtesy copies of memoranda of law and pre-trial/post-trial briefs, excluding exhibits and attachments, should be hand delivered to the Part no later than the final submission date of the motion or brief.
  - 3. Hyperlinked Memoranda and Briefs. For lengthy briefs and memoranda of law, the Court welcomes (but does not require) the submission of electronic versions with hyperlinks to cited cases, exhibits, etc.
  - 4. Orders to Show Cause. In addition to filing all Orders to Show Cause with the *ex-parte* office, all Orders to Show Cause should also be e-mailed to Chambers at [sfc-part3@nycourts.gov](mailto:sfc-part3@nycourts.gov) as a Word document prior to presenting to the Part.
- B. All e-filed documents must be text-searchable. All e-filed memoranda of law must contain bookmarks, pursuant to Commercial Division Rule 6.

## **III. CONFERENCES**

- A. Only attorneys fully familiar with the matter and with authority to resolve disputes are to appear for court conferences.
- B. Counsel for all parties must meet and confer prior to a preliminary or compliance conference in accordance with Commercial Division Rule 8.
- C. Preliminary Conferences.

- a. Parties are to use this Part's standard form Preliminary Conference Order. Copies are available on the Commercial Division website (<http://www.nycourts.gov/courts/comdiv/ny/newyork.shtml>), from the Part Clerk, or in the Courtroom.
  - b. Parties are strongly encouraged to fill out the Preliminary Conference Order in advance of the Conference. If there are no disputes between the parties as to the Proposed Order, *and the Proposed Order does not extend the time periods set forth in the Part's standard form*, the parties may drop off the Proposed Order at or before the designated conference time and leave. Signed Orders will be uploaded to NYSCEF by the end of the conferencing week. If the Court requires a discussion regarding the Proposed Order, the parties will be notified.
- D. Parties must bring a copy of the last Conference Order entered into when attending all Discovery conferences. Even if the parties submit their Proposed Order in advance of the Conference, a copy of the last signed Order must be provided to the Court.

#### IV. **ADJOURNMENTS**

- A. Absent extraordinary circumstances, all adjournment requests must be made at least: (i) 24 hours in advance of a scheduled conference; (ii) 48 hours in advance of a scheduled oral argument or other hearing; or (iii) two weeks in advance of trial, and must state the reason for the adjournment, whether all parties consent, and whether any prior adjournments of the date have been sought or obtained.
- B. If adjourning by stipulation, the parties must first consult with the Part Clerk before selecting a new date. Other than with respect to motions in the Submissions Part, *see* below, adjournments by stipulation are not effective until approved by the Court.
- C. To adjourn a motion that is in the Submissions Part (Room 130):
  1. If the parties wish to adjourn the motion for less than sixty (60) days from the original return date, the parties may adjourn by stipulation without an order from the Court. The stipulation must be electronically filed and filed in the Submissions Part on or before the return date of the motion.
  2. If the parties wish to adjourn the motion for more than sixty (60) days from the original return date, then the parties must submit a proposed stipulation of adjournment, with the reasons therefor, to the Court for approval. If approved, the So-Ordered version of the stipulation will be electronically filed, so that the parties may retrieve the signed order from NYSCEF and present it to the Submissions Part on or before the return date.

## V. MOTION PRACTICE

- A. Pre-Motion Letters. Except for discovery motions (Section VI below), no prior permission or letters pursuant to Commercial Division Rule 24 are required before making a motion. If the parties believe the dispute may be resolved quickly, and without the need for formal motion practice, they can request a pre-motion conference.
- B. Memoranda of Law.
1. All motion papers (in support, opposition, or reply), whether by notice of motion or order to show case, must include a Memorandum of Law containing (if it exceeds ten pages) a Table of Contents and Table of Authorities. Affidavits of counsel containing legal argument should not be submitted.
  2. Word limits specified in Commercial Division Rule 17 will be strictly enforced, unless permission to expand the word limits is granted in advance of the filing of the papers. Parties with common interests are strongly encouraged to file joint briefs.
- C. Motion for Summary Judgment. The provisions of Commercial Division Rule 19-a are incorporated herein.
- D. Exhibits. Each exhibit must be e-filed under its own document number and include a short label identifying the nature of the exhibit (e.g., Affidavit of John Smith, Contract dated 1/1/19, etc.).
- E. Font and Form. All papers shall use the same typeface (12-point font or larger for text *and* footnotes), margins (1 inch or more) and spacing (double spaced), and must have the appropriate Motion Sequence Number to which they are related placed on the front page.
- F. Oral Argument. Requests for oral argument may be included in the Notice of Motion or in the Opposition papers. If the Court concludes that oral argument is not necessary, a written Decision will be issued on the submitted papers. If a hearing is scheduled, parties will be notified by e-Track. (Requests for oral argument are more likely to be granted if counsel identifies a lawyer out of law school for five years or less who will argue the motion and references this rule in the request.)
- G. Pro Hac Vice. Requests for *pro hac vice* admission should include: a joint stipulation consenting to the admission, if possible; an affidavit by the attorney seeking admission, accompanied by a certificate of good standing for all jurisdictions admitted; and a proposed order.

## **VI. DISCOVERY**

- A. The Court expects parties and counsel to proceed cooperatively and professionally during discovery, with an emphasis on efficiency, practicality, and proportionality. Parties and counsel should assume that the Court is able to distinguish between those who solve problems and those who create them unnecessarily.
- B. Discovery motions are discouraged. If a dispute cannot be resolved after good faith efforts to meet and confer, the parties should proceed in accordance with Commercial Division Rule 14.

## **VII. TRIAL RULES**

- A. Trial Date. Assigned trial dates are considered firm. No adjournments of the trial date will be granted absent exceptional circumstances and for good cause shown.
- B. Pretrial Submissions. In addition to the procedures and submissions set forth in Commercial Division Rules 26-32-a, which are incorporated herein by reference, the parties shall submit the following at least 10 days prior to the pretrial conference:
  - 1. A joint statement of stipulated facts and procedural history.
  - 2. Marked pleadings.
  - 3. For jury trials only:
    - i. A *short* summary (one or two sentences) of your party's claims to be used by the Court as part of the preliminary instructions given to the jury before opening statements.
    - ii. The proposed jury instructions (Commercial Division Rule 31(b)) should be submitted in hard copy and by email to Chambers (sfc-part3@nycourts.gov) in Word format.
- C. E-Filing of Exhibits. At the conclusion of trial, counsel are expected to e-file any exhibits admitted into evidence, along with deposition transcripts used and any other documents required to complete the record for purposes of any appeal.
- D. Transcripts. For both jury and non-jury cases, the Court requires that the parties order a daily copy of the transcript during trial.
- E. Post-Trial Briefs. Two weeks after a non-jury trial, the parties are to each submit post-trial briefs of up to 25 pages (excluding attachments) that include proposed findings of fact and conclusions of law, setting forth, *inter alia*, the elements of each claim for relief with citations to the record and legal authority setting forth the party's position as to each element

of each claim. Two courtesy copies of the briefs (excluding attachments) should be delivered to the Part and one copy sent by email to Chambers ([sfc-part3@nycourts.gov](mailto:sfc-part3@nycourts.gov)) in Word format.