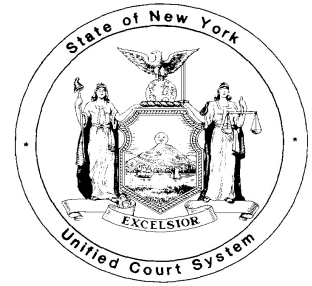


# NEW YORK COUNTY SUPREME COURT, CIVIL BRANCH



HON. JOAN B. CAREY, ADMINISTRATIVE JUDGE

**Main Courthouse:**

60 Centre Street  
New York, New York 10007

**Satellite Courthouses:**

80, 100 and 111 Centre Street  
71 Thomas Street  
New York, New York 10013

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## RULES OF THE JUSTICES

[REVISED FEBRUARY 28, 2006, EFFECTIVE APRIL 17, 2006;  
RULES REGARDING PUBLIC ACCESS ON-LINE PROJECT (“SCROLL”) ADDED SEPT. 8,  
2006, EFFECTIVE SEPT. 15, 2006;  
BACKGROUND INFORMATION UPDATED: OCTOBER 27, 2009]

The following constitute the rules of the Justices of the Supreme Court, Civil Branch, New York County (hereinafter “the Rules” or “the Local Rules”) with the exception of the Justices of the Commercial Division. A separate set of uniform rules governs cases assigned to the Commercial Division.

**STRUCTURE OF THESE RULES:** Immediately below is a Basic Information section that lists the Justices of the court in alphabetical order and a summary of the operational details of their Parts (e.g., motion days). Variations exist among the Parts in regard to such details. Except as so indicated, the Local Rules are uniform throughout the Supreme Court, Civil Branch, New York County (Commercial Division apart). An attorney who wishes to know the requirements followed in a particular Part should consult the main body of the Rules together with the portion of the Basic Information section that pertains to that Part. Information on the status of cases and activity therein and copies of decisions and other case documents are available in SCROLL, which is accessible through the website of this court (at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)).

### BASIC INFORMATION

(Rooms are located at 60 Centre Street unless otherwise indicated.)<sup>1</sup>

**HON. HAROLD B. BEELER** Part 21, Transit/City Transit Part, Room 304, 71 Thomas Street, Phone: 646-386-3738  
**Motions & Conferences:** Mondays (all day) and Friday mornings, on a staggered schedule.

**HON. RICHARD F. BRAUN** Part 23, General IAS Part, Room 320, 80 Centre Street, Phone: 646-386-3754  
**Conferences:** Tues., 9:30 AM (compliance conferences); 10:30 AM (preliminary conferences). **Motions:** Thurs., 9:30 AM (motions that have been adjourned in the Part); 10:30 AM (motions newly calendared in the Part). All contested motions are scheduled for argument in the Part following final submission in Room 130. Opposing papers on orders to show cause will be accepted at oral argument thereof.

**HON. JOAN B. CAREY** Part 29, Medical Malpractice IAS Part, Room 228, Phone 646-386-3302/3365  
**Motions and Conferences:** Fri., 9:30 AM

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<sup>1</sup> The motion days set forth set forth in this section consist of the days on which Justices normally hear motions that have been submitted in the Motion Support Office Courtroom (Room 130) and then rescheduled for argument in the relevant Part. However, Justices may of course schedule argument on orders to show cause at other times as need requires.

**HON. MATTHEW F. COOPER** Part 9, Matrimonial Part, Room 289, 80 Centre Street, Phone 646-386-3848.

**HON. MARYLIN G. DIAMOND** Part 48, General IAS Part, Room 412, Phone: 646-386-3298

**Docket:** Part 48 is a pure IAS Part. All cases assigned to the Part for conference or motions will remain in the Part up to and including trial.

**Conferences:** Conferences are held on Tuesdays on a staggered schedule for the convenience of counsel and the parties. The court will advise counsel of the specific time to appear. Counsel appearing at a preliminary, compliance or status conference are expected to be familiar with the case and to have the authority to discuss all discovery issues and possible settlement. At a compliance conference, counsel who will actually be trying the case or an attorney fully familiar with trial counsel's schedule must appear. A scheduled conference may be adjourned one time for no more than two weeks by stipulation of the parties faxed to the court by noon on the preceding Monday. Any further adjournments require the approval of the court, which will be granted only for good cause. The request for any such additional adjournment must be submitted to the court by fax no later than 4 PM on the preceding Friday. No adjournments will be given over the telephone. Failure to appear for a scheduled conference may result in the imposition of appropriate judicial sanctions. Failure to comply with the discovery schedule fixed by the preliminary conference or compliance conference order will result in the imposition of an appropriate sanction pursuant to CPLR 3126. If one or more of the parties has a legitimate need to seek modification of the discovery schedule, a timely application should be sent by fax to the court with a copy to all other counsel. If the case is settled, the parties must promptly fax to the court a stipulation of settlement and discontinuance outlining the terms of the settlement.

**Motions:** Discovery motions are strongly discouraged by the court. If a discovery dispute arises after the issuance of a preliminary or compliance conference order, counsel should, prior to making a motion, telephone the judge's Law Secretary, Mr. Nicholas Moyne, at 646-386-3255. Mr. Moyne will arrange a conference call among all counsel in an attempt to resolve the dispute. If he cannot do so, he will instruct counsel to fax a short letter to the court, with copies to all counsel, outlining the nature of the dispute, to which all other counsel shall promptly respond by fax. If the court cannot resolve the dispute, the party seeking relief will then be permitted to make an appropriate motion. Motions returnable in the Motion Support Office and assigned to the Part will be on submission unless the court advises the parties that oral argument is desired. Responsive papers to orders to show cause must be delivered to the courtroom at least one day prior to the return date unless the court indicates otherwise. Absent express permission, reply papers are not to be submitted by the movant on any order to show cause. Orders to show cause may be adjourned by stipulation one time only for no more than two weeks and the stipulation shall be faxed to the court by 4 PM on the business day preceding the return date. Any further adjournments require the approval of the court. The request for any such additional adjournment shall be submitted to the court by fax no later than 4 PM two business days prior to the return date. Counsel are reminded that the CPLR does not provide for any sur-reply papers, however denominated. The submission of papers or letters after the return date is not permitted. Sur-replies and other papers or letters addressed to the substance of motions will not be read or considered. Courtesy copies should not be submitted unless specifically requested by the court. Information on whether decisions have been rendered should be obtained by checking with the appropriate clerk's office or the New York Law Journal. If a self-addressed, stamped envelope is submitted with a letter or note indicating the name and index number of the case, an unentered copy of the court's decision or order will be mailed to counsel. Calls to chambers inquiring about the status of a particular motion or special proceeding should not be made. If a motion is withdrawn or a special proceeding is settled the parties should promptly fax to the court a letter of withdrawal or a stipulation of settlement and discontinuance.

**Trials:** Trials are scheduled for a date certain generally within 45 days after a compliance conference is held following the filing of a note of issue. Trials are held every day of the week except Tuesdays. In the case of a jury trial, all counsel must submit to the court, at least seven days prior to trial, a witness list, proposed jury instructions and a proposed verdict sheet. A memorandum of law is optional. If the proposed jury instructions are verbatim from the Pattern Jury Instructions, only PJI numbers are necessary. If a PJI instruction is being modified, exact language must be submitted together with the appropriate authority therefor. In the case of a bench trial, all counsel must submit a witness list, proposed findings of fact and a memorandum of law. In all cases, plaintiff's counsel shall submit marked pleadings and a copy of the bill of particulars. Expert and the medical witnesses should not be scheduled on Tuesdays, which is a calendar day. No adjournments will be granted if a witness is unavailable to testify unless the court concludes, in rare instances, that good cause exists.

**HON. LAURA DRAGER** Part 31, Matrimonial IAS Part, Room 311, 71 Thomas Street, Phone: 646-386-3355

**Motions & Conferences:** Mon. all day and Tues. mornings

**HON. CAROL EDMEAD** Part 35, General IAS Part, Room 438, Phone: 646-386-3322

**Motions:** Tues. 9:30 A.M. and 11:30 A.M. on a staggered schedule

Discovery motions are strongly discouraged. (See also Rules of the Justices, New York County Supreme Court, Civil Branch (Non-Commercial Division), NYLJ, Rule 11).

Motions returnable in the Motion Submission Part Room 130 and assigned to the Part will be on submission unless the court advises the parties that oral argument is required.

Orders to show cause will be returnable in the Part. Responsive papers to orders to show cause must be delivered to the courtroom at least 4 days prior to the return date unless the court indicates otherwise. Absent an emergency, orders to show cause may not be adjourned. If the motion is adjourned, all papers are due in the Part on the Friday before the adjourned date.

In the event a motion has been resolved by withdrawal or settlement of the case, counsel are encouraged to advise the court prior to the Tuesday calendar by promptly faxing to the court a letter of withdrawal or a stipulation of settlement and discontinuance.

There shall be no ex parte communications with chambers and there will be no telephone adjournments. (See also NYLJ, Rules 1 (a), 4, 13 (b), 14 (a) and 14 (c)).

**Conferences:**

(See NYLJ, Rule 1(a), 7(c), and 10 (b)).

All preliminary conferences are scheduled for Tuesdays at 2:15 P.M.

Preliminary conferences may not be adjourned. All stipulations of adjournment are subject to court approval and must be on consent, in writing. If there is no consent, the date must be honored and counsel must appear for an oral application for an adjournment. When an order to show cause is filed prior to the scheduling of a preliminary conference, the court will hold the preliminary conference on the return date of the Order to Show Cause, except where an Order involves (1) a reference; (2) a stay of the proceedings, i.e. bankruptcy or (3) the death of a party or other substitutions. (See also NYLJ, Rule 7 (a)).

At a compliance conference, a scheduled conference may be adjourned one time for no more than two weeks by stipulation of the parties faxed to the court by noon on the preceding Friday. Any further adjournments require the approval of the court, which will be granted only for good cause. The request for any such additional adjournment must be submitted to the court by fax no later than 4 P.M. on the preceding Friday. No adjournments will be given over the telephone. (See also NYLJ, Rule 1(b)).

At a pre-trial conference, counsel and their clients must appear unless the court expressly directs otherwise. (See also NYLJ, Rule 1(b)).

**Trials:**

Trials are scheduled for a date certain generally within 45 days after a conference is held following the filing of a note of issue. Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency. Trials are held every day of the week except Tuesdays, which is a calendar day. No adjournments will be granted if a witness is unavailable to testify unless the court concludes, in rare instances, that good cause exists. (See also NYLJ, Rules 20 and 21, and Pre-Trial Information Sheet available in the Part).

**HON. SARALEE EVANS** Part 51, Matrimonial IAS Part, Room 103, 71 Thomas Street, Phone: 646-386-3846

**Motions:** Tues., 9:30 AM **Conferences:** Tues, 11 AM

**HON. PAUL G. FEINMAN** Part 12, General IAS Part (Presumptive E-Filing Part), Room 212, Phone: 646-386-3273.

**HON. NICHOLAS FIGUEROA** Part 46, Trial Part, Room 325, Phone: 646-386-3279

**HON. MARCY S. FRIEDMAN** Part 57, General IAS Part and Complex Litigation Part (E-Filing), Room 328, 80 Centre Street, Phone: 646-386-3759

Chambers: Room 326, 80 Centre Street, Phone: 646-386-3760

**Motions:** Thurs., 9:30 AM

**Preliminary Conferences:** 11:00 AM unless otherwise directed by the Court. **Compliance Conferences:** 2:15 PM unless otherwise directed by the Court.

**HON. IRA GAMMERMAN (JHO) (ADMINISTRATIVE COORDINATING JUDGE)** Parts 40 and 27C, Room 242, Phone 646-386-3265

**HON. ELLEN GESMER** Part 24, Matrimonial Part, Room 210, 71 Thomas Street, Courtroom Phone: 646-386-3285; Chambers phone: 646-386-3730; Fax 212-884-8986

Law Secretary: Kristin Bebelaar

**Motions and Conferences:** Thursdays and Fridays, at staggered times.

**Adjournments:** Adjournments may be sought either by a conference call with the Law Secretary or the Part Clerk.

**Motions:** All applications for relief, except cross-motions, must be made by Order to Show Cause unless otherwise directed by the Court. To reduce the need for motion practice, counsel are encouraged to contact the Court by conference call prior to filing a motion.

**Communication with court:** Counsel and parties may not communicate with the Court by letter, email or fax, and may not send the court copies of correspondence between counsel, without prior approval by the Court.

**Post-trial submissions:** After trial, parties shall submit post-trial proposed findings of fact and conclusions of law, with copies on computer disk or Word Perfect formatted email attachment.

**HON. JUDITH J. GISCHE** Part 10, General IAS Part, Room 122, 80 Centre St., Courtroom Phone: 646-386-3722 Chambers Phone: 646-386-3723

Fax: 212-401-9288

Principal Court Attorney: Eileen Kaspar, Esq.; Law Steno: Sheila Riley-Aultman

**Preliminary Conferences:**

All preliminary conferences in newly assigned cases are scheduled for Thursdays at 9:30 a.m. Cases are called when all sides are present and default applications will be entertained by the court at 11:00 a.m.

**Motions:**

All Orders to Show Cause will be heard on Thursdays in Part 10 at 80 Centre Street, Room 122 at 9:30 a.m. on the return date, unless otherwise provided for by the court.

**Adjournments:**

A court appearance may be adjourned on consent, provided all parties who have appeared in the action sign a stipulation to that effect and deliver it to court via fax, email or in person by 2:00 p.m. the day before the appearance is scheduled. The stipulation is still subject to court approval and it must include: 1) the reason for the adjournment, 2) the date the case was last on, and 3) the date by which the Note of Issue must be filed. If there is no consent, the scheduled date must be honored and counsel must appear for an oral application for the adjournment.

**Trials:**

Trials are scheduled to proceed day by day until completed. Marked pleadings, proposed jury instructions and verdict sheets and a one paragraph summary of the contentions are to be filed in the Part once the trial is assigned to Part 10. Additionally, a disk or email with these documents is also to be provided at that time.

**HON. EMILY JANE GOODMAN** Part 17, General IAS Part, Room 422, Phone: 646-386-3283

Law Secretary: Andrea S. Field, Esq.

**Motions & Conferences:** Thurs.

1. Only attorneys thoroughly familiar with the case may appear. Bring **SIGNED** copies of all prior decisions and orders, which can be obtained from the County Clerk file, to the conference.
2. Preliminary Conferences are held at 10:00 a.m. and Compliance Conferences are held at 10:30 a.m.
3. Attorneys who appear at discovery and compliance conferences may not leave the courtroom once they have signed in until the case is conferenced absent opposing counsel's permission.
4. While you are waiting for your case to be called, please confer with opposing counsel and draft a preliminary or compliance conference order/stipulation providing for all remaining discovery. Disputes will be resolved at the conference. Discovery orders/stipulations must set specific dates certain for all deadlines, including IMES and impleaders.
5. Compliance conferences will be held at least every three months.
6. The Judge will not sign illegible documents, and spelling counts!
7. Adjournments are permitted only with the approval of the Part Clerk or Law Clerk. This includes all conferences and all oral arguments. **NO TELEPHONE CALLS to Chambers** absent emergency or a previously scheduled conference call with the Law Clerk. If you need to contact Chambers, please e-mail the Law Clerk at [Afield@courts.state.ny.us](mailto:Afield@courts.state.ny.us) and copy all counsel.
8. Before inquiring about the status of any pending motion, judgment or order, please check eTrack or The New York Law Journal. Please refrain from making any status inquiry unless 60 days from submission has expired.
9. If you would like a copy of a decision, please check SCROLL, posted at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) (under "Case Information") or obtain a copy from the County Clerk.
10. We do **NOT** accept courtesy copies.
11. Absent leave of Court on good cause shown, dispositive motions must be made within 45 days after the filing of the Note of Issue.
12. Except for the delivery of an Order to Show Cause with a Temporary Restraining Order, all document deliveries or retrievals from Chambers must be done between 3 PM - 4PM. Arguments in connection with any Temporary Restraining Order must be made by appointment.

**SETTLEMENT CONFERENCES**

Attorneys with authority to settle must attend all Settlement Conferences and bring the client or claims adjuster when directed. At

least one week prior to Conference, plaintiff must communicate a demand to defendants and defendants must respond with a counter-offer. Failure to adhere to these rules may result in sanctions.

**HON. SHLOMO HAGLER** Part 25, Guardianship Part, Room 623, 111 Centre Street, 646-386-5675

**HON. SHERRY KLEIN HEITLER** Part 30, Center for Complex Litigation, Room 543, Phone: 646-386-3291

**HON. CAROL E. HUFF** Part 32, Trial Part, Room 331, Phone: 646-386-3281

**HON. DEBRA A. JAMES** Part 59, General IAS Part (E-Filing), Room 1254, 111 Centre Street, Phone: 646-386-3351

**Motions and Preliminary Conferences:** Tuesdays, 9:30 AM and 11:00 AM

**Compliance Conferences:** Tuesdays, 11:00 AM

**Status Conferences:** Tuesdays, 2:30 PM

**Pre-Trial Conferences:** Tuesdays, 12 noon

#### Appearances by Counsel:

Counsel who appear at conferences or for oral argument of a motion or other matter that is scheduled in the courtroom shall note their appearance on the calendar posted inside the courtroom. The Clerk of the Part will call each matter in the order in which all parties have so marked their appearances as present. Counsel who appear at conferences shall complete the appropriate form and submit such form to the Part Clerk prior to the matter being called. Counsel shall produce copies of all prior discovery stipulations and orders at each conference.

#### Motions:

Contested motions, after submission to the Motion Support Office, shall be rescheduled by the Part Clerk for oral argument. Notice to the parties of such argument will be transmitted by the court.

#### Orders to Show Cause:

Orders to Show Cause, unless directed otherwise, are returnable in the Part.

#### Adjournments

If the parties consent to an adjournment of a Show Cause Order, the Part Clerk, Ms. Charlotte Williams (646-386-3351) must be notified two business days before the scheduled return date. Upon approval by the court, the stipulation of adjournment shall be faxed or delivered to the court by 4 PM on the business day preceding the return date.

#### Disputes and Motions Concerning Discovery:

If counsel are unable to resolve a discovery dispute in the manner called for by Uniform Rule 202.7, the aggrieved party shall contact Charlotte Williams, the Part Clerk promptly, within any applicable deadline, and prior to bringing a formal motion. As appropriate in the circumstances, the court may direct submission of concise letters or telephonic or in-court conference. Where a formal motion concerning discovery is brought and no preliminary conference has been conducted, the court will schedule and hold a preliminary conference on the return date of such motion.

#### Trials

At the pre-trial conference, the court will distribute to each party a Pre-Trial Information Sheet and Stipulation and Order that require, inter alia, a statement of undisputed facts and an estimate of required trial days, which each party must complete and submit to the court within one week before the date set for trial.

#### Miscellaneous

There shall be no ex parte communications with the court.

**HON. DEBORAH A. KAPLAN** Part 20, Matrimonial Part, Room 540, Courtroom Phone: 646-386-3300; Chambers Phone: 646-386-5567; Fax: 212-401-9037

Principal Law Clerk: Hemalee, J. Patel, Esq.

Assistant Law Clerk: Deanna Lucci, Esq.

Part Clerk: Ida Lee

Rules (effective March 25, 2009):

### **GENERAL PART RULES**

All court appearances are on a staggered schedule.

All adjournments require the prior approval of the court.

All adjournments due to the actual engagement of counsel shall be granted in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. Affirmations must be faxed to the Court at least one (1) day prior to the court appearance.

All parties **must** be present for all appearances and conferences unless excused by the Court.

Correspondence, whether by mail, e-mail or facsimile, between counsel is **not** to be copied to Chambers.

Pursuant to 22 N.Y.C.R.R. 202.16(d) a R.J.I. **must** be filed within the forty-five (45) days of the date of service of the summons **unless an affidavit of no necessity is filed**, in which event the R.J.I. must be filed within one hundred and twenty (120) days.

All papers submitted to Part 20 **must** include a fax number.

### **MOTIONS**

Wednesday is designated as motion day.

Oral argument is required on all motions and orders to show cause, unless directed otherwise by the Court.

Counsel are required to file all responsive papers in Part 20. All exhibits are to be identified by tabs. Cross motions are to be filed with the Matrimonial Clerk's Office **two (2)** days prior to the return date.

Motions may not be adjourned on consent more than once without court approval. Counsel are directed to submit a written stipulation reflecting their consent which must include additional available dates.

Counsel are reminded that the CPLR does not provide for sur-reply papers or allow the presentation of papers or letters to the court after argument of a motion. Sur-replies, letters and the responses to such letters addressed to the substance of motions will not be considered.

Any allegations of fact submitted to the court, including allegations contained in an affidavit and/or the complaint, must be certified by counsel in the form prescribed by the Chief Administrative Judge.

### **ORDERS OF PROTECTION**

Ex- parte requests for orders of protection must be accompanied by the Family Protection Registry Information Sheet and the litigant must be present. Motions to consolidate Family Court orders of protection actions must contain a complete copy of the Family Court file.

### **PRELIMINARY CONFERENCE**

Preliminary Conferences will be held on Wednesdays and Thursdays, unless notified otherwise by the Court. The conference must be held within forty-five (45) days of the filing of an R.J.I. **The party seeking judicial intervention is required to notify the opposing party of the Preliminary Conference date. There will be no adjournments of Preliminary Conferences without express permission from the court.**

Counsel are reminded that pursuant to 22 N.Y.C.R.R. 202.16(f)(1) Net Worth affidavits are to be filed with the court ten (10) days prior to the conference date. They are to be accompanied by the attorneys' retainer statements and the parties' recent pay-stubs or W-2 statements.

### **COMPLIANCE CONFERENCE**

Compliance Conferences will be held on Wednesdays and Thursdays or on a date selected by the court.

The date of the Compliance Conference shall be set at the time of the Preliminary Conference. Counsel should not wait until the date of the Compliance Conference to advise the Court of any failures to comply with Preliminary Conference directives and discovery orders. Such failure should be addressed **prior** to the Compliance Conference either by motion or conference call to Chambers. Failure to **timely** comply with the Court ordered discovery may result in the imposition of sanctions and counsel fees.

### **PRE-TRIAL CONFERENCE**

Note of Issue shall be filed prior to the pre-trial conference and in accordance with the compliance order. **At the pre-trial conference, counsel will provide the court with statements of proposed disposition, updated net worth statements with the last three years of tax returns and a child support worksheet, if applicable.** Counsel shall present all motions in limine

at this conference.

## **TRIAL**

The Court is to be provided with the following pursuant to Court Order but no less than thirty (30) days prior to day of trial:

1. Marked pleadings.
2. Updated statement of net worth, statement of proposed disposition and child support worksheet, if applicable.
3. A witness list, expert reports not previously filed and any pre-trial memorandum.
4. A list of all proposed exhibits.
5. A list of documents which counsel may stipulate into evidence, such documents are to be pre-marked by counsel.
6. A written copy of any issues or facts to which the parties can stipulate in the advance of trial. Said stipulation to be read into the record at the commencement of the trial.
7. Statements of proposed disposition.

Counsel are reminded that pursuant to 22 N.Y.C.R.R. 202.16(9) all expert reports are to be exchanged and filed with the Court sixty (60) days before the date set for trial. Reply reports, if any, shall be exchanged and filed no later than thirty (30) days before said date.

Sanctions and/or costs may be imposed for failure to comply with any rules set forth herein.

Once a case has been assigned a trial date, **it is presumed ready for trial**. Trials will be day to day. No consent adjournments will be accepted. Failure to proceed will result in default relief being granted or the action being dismissed. In the event the action is resolved prior to the court date, counsel are expected to notify Chambers immediately.

The Court is to be provided with duplicates of all items marked into evidence.

The Court may direct one or both parties to order the transcript and allocate the costs.

All judgments of divorce must contain a form VS 140 containing the social security number of both parties. All judgments must be submitted within 60 days or the action will be deemed abandoned and dismissed. All QDROs must be submitted within 45 days of the signing of the Judgment and must be accompanied by written plan approval.

Copies of decisions and orders will be mailed to all counsel and any self-represented litigants.

Information on whether decisions have been issued or judgments or signed orders should be obtained by telephoning the Matrimonial Clerk's Office between 9-5 p.m. or by checking the New York Law Journal.

**HON. SHIRLEY W. KORNREICH** Part 54, General IAS Part and Complex Litigation Part (E-Filing)[also Commercial Division Part (see Commercial Division website)]], Room 416, Phone: 646-386-3362

## **Motions**

Motions are heard on Thursdays at 9:30 AM. Discovery motions are strongly discouraged. If a discovery dispute arises after a preliminary or compliance conference order is issued, counsel should, prior to making a motion, telephone the Part Clerk, Ms. Celia Rodriguez, at 646-386-3362 to advance the date of the next conference scheduled in the order. Waiting for the next scheduled conference is not automatic "good cause" for failing to proceed with discovery orders. Similarly, counsel are cautioned that one party's non-compliance with directives of the court will not automatically excuse other parties' non-compliance.

Orders to show cause will be returnable in the Part. When an Order to Show Cause is filed prior to the scheduling of a preliminary conference, the court will hold the preliminary conference on the return date of the Order to Show Cause.

No motions may be adjourned without consent of the court. Absent emergency, requests for adjournments must be submitted to the Part at least two business days before the return date. If the motion is adjourned, all papers are due in the Part on the Monday before the adjourned date.

Counsel are reminded that the CPLR does not provide for any sur-reply papers, however denominated. Nor does the court accept

reply papers on Orders to Show Cause. The submission of papers or letters after the return date is not permitted. Sur-replies and other papers or letters addressed to the substance of motions will not be read or considered. Except in cases electronically filed through the New York State Courts Electronic Filing System ("NYSCEF"), courtesy copies should not be submitted unless specifically requested by the court. Information on whether decisions have been rendered should be obtained by checking with the appropriate clerk's office.

The court will no longer send courtesy copies of decisions to represented parties unless their case is "e-filed" through the NYSCEF System. However, the court will continue to send courtesy copies to unrepresented parties. Please do not contact the Part Clerk for a courtesy copy; the Part will *only* provide courtesy copies in the instances outlined above.

Calls to chambers inquiring about the status of a particular motion or special proceeding should not be made. However, if a motion is withdrawn or a special proceeding is settled, the parties should promptly contact the Part Clerk, Ms. Celia Rodriguez, by faxing to the Part (212-374-6360) a letter of withdrawal or a stipulation of settlement and discontinuance. If the parties are then unable to reach Ms. Rodriguez, then they may contact chambers to provide such information.

### **Conferences**

All preliminary conferences in newly assigned cases are scheduled for Thursdays at 9:30 A.M. Preliminary conferences may not be adjourned and must be held within 30 days of the Request for Judicial Intervention. All stipulations of adjournment are subject to court approval and must be on consent, in writing. If there is no consent, the date must be honored and counsel must appear for an oral application for the adjournment.

Counsel appearing at a preliminary, compliance or status conference are expected to be familiar with the case and to have the authority to discuss all discovery issues and possible settlement. Counsel must bring copies of all prior discovery orders to conferences. If there is a dispute as to whether discovery requests are proper or responses are sufficient, counsel should bring relevant documents and transcripts to the conference. At a compliance conference, counsel who will actually be trying the case or an attorney fully familiar with trial counsel's schedule must appear. Further, where a compliance or status conference concerns the scheduling of depositions, counsel must have with them dates on which they and/or their clients are available to appear.

### **Trials**

Trial dates scheduled by the court are firm and may only be adjourned upon application based upon emergency. At least three days prior to any scheduled trial, counsel and pro se parties are required to serve and submit the following:

- a. A witness list, any expert reports not previously provided, and any pretrial memoranda and in limine motions;
- b. Proof of filing the Note of Issue; for a jury trial, at least five days before trial, counsel shall obtain from the Part Clerk a Jury Request Form.
- c. Marked pleadings and the bill of particulars;
- d. In a jury trial, requests to charge, contentions and a proposed verdict sheet.

If a case is settled, the parties must promptly fax to the Court a stipulation of settlement and discontinuance outlining the terms of the settlement.

**HON. EDWARD H. LEHNER** Part 19, General IAS Part (E-Filing), Room 252, Phone: 646-386-3277

**Motions:** Fri., 9:30 AM **Conferences:** Wed., 9:30 AM

**HON. DORIS LING-COHAN** Part 36, General IAS Part, Room 428, Phone: 646-386-3733

#### **PART 36 General Procedural Information:**

Only admitted attorneys familiar with the case may appear on matters before the Court.

**Motions:** All motions (except orders to show cause) shall be made returnable to: Motion Support Office, Room 130, 60 Centre Street. Oral argument will be scheduled at the Court's discretion, and will generally be held on Thursday morning at 9:30 a.m., Room 279 at 80 Centre Street, unless otherwise directed, by the Court. Parties will be notified, should oral argument be required.

**Adjournments:** shall be by stipulation, with Court approval, not to exceed one month, and must be requested by the parties at least two (2) days prior to the return/argument date; stipulation to be submitted to the Part Clerk, at 80 Centre Street, Room 279.

Once a motion is fully submitted in the Motion Support Office, the Court will not accept additional papers, unless by stipulation of the parties.

**Motion Guidelines:**

1. Any references to EBT testimony shall cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or “relevant portions”; full transcripts shall be supplied.
2. Protruding exhibit tabs shall be used to reference all exhibits.
3. On motions to renew and reargue, a separate appendix containing the original motion, and all papers submitted, with a copy of the Court’s decision shall be provided. The appendix shall contain protruding exhibit tabs, as was originally provided to the Court. Such appendix shall be labeled “Appendix Containing Decision, Original Motion Papers”.
4. Plastic covers shall not be provided to the Court.
5. Courtesy copies shall not be provided, unless directed by the Court.
6. Counsel is requested to ensure that any staples are not protruding.

**Discovery Issues:** Prior to filing a discovery related motion, if still unable to resolve discovery issues after efforts have been made as required by 22 NYCRR §202.7(a), parties are encouraged to write a letter to the Court, with a copy to opposing counsel, requesting a conference, if a regularly scheduled conference is not imminent. In addition, all discovery issues shall be brought to the Court’s attention at regularly scheduled discovery compliance conferences, or shall be considered waived.

**Discovery Conferences:** Discovery Compliance Conferences are generally held on Fridays (unless notified otherwise), in Room 279, at 80 Centre Street, on a staggered schedule, beginning at 9:30 a.m. Counsel appearing shall be prepared to discuss all outstanding discovery issues, as well as the facts of the case and settlement options. Parties shall advise the Court of any pending motions, and if any party is self-represented. There shall be no adjournments, unless by written stipulation, with Court approval; such stipulation shall be received at least two (2) days prior to the scheduled conference, to be delivered/mailed to: Part 36 Clerk, Room 279, 80 Centre Street, N.Y., N.Y. 10013. When a note of issue is filed, counsel shall send a courtesy copy to the Part 36 Clerk.

**Dispositive Motions:** Dispositive motions shall be filed within 60 days of filing a note of issue. The filing of a motion for summary judgment will not stay the discovery process, nor mediation.

**Facsimiles:** The Court does **not** accept faxes, unless prior permission has been received from the Court. Any fax received without prior Court permission will not be considered.

**Letters:** Do not send letters to the Court in triplicate (i.e. via regular mail, fax and hand delivery); please choose one delivery method when sending a letter to the Court.

**Conference Calls:** To the extent possible, please arrange conference calls between 3 and 3:30 p.m., unless otherwise directed by the Court.

**HON. JOAN B. LOBIS** Part 6, Medical Malpractice IAS Part (E-Filing), Room 345, Phone: 646-386-3312

**Motions:** Tues., 9:30 AM **Conferences:** Tues., As directed by the court

**HON. JOAN A. MADDEN** Part 11, General IAS Part (E-Filing), Room 351, Phone: 646-386-3314

**Motions:** Thurs., 9:30 AM **Conferences:** Thurs., 9:30 AM

**HON. DOUGLAS MCKEON**, Part 38 Medical Malpractice IAS Part, Room 408

**Settlement Conferences:** Third Wednesday of each month at 10 AM

**Other Appearances:** Every Thursday

**HON. DONNA MILLS** Part 58, Trial Part, Room 574, 111 Centre Street, Phone:646-386-3347

**HON. EILEEN A. RAKOWER** Part 5, City IAS Part, Room 307, 80 Centre Street, 646-386-3374

**HON. SALIANN SCARPULLA** Part 52, City IAS Part (E-Filing Part), Room 279, 80 Centre Street (Trial and Motion Courtroom), Phone: 646-386-3742; DCM Courtroom, 80 Centre Street, Room 103, 646-386-3683; DCM Clerk’s Office, 80 Centre Street, Room 102, 646-386-3687; Chambers, 80 Centre Street, Room 283, 646-386-3690 (see 2 (F) below).

Principal Law Clerks (646-386-3690): Ms. Ariella Zarfati, Esq. and Ms. Danielle Schweiloch, Esq.

**Oral Argument on Non-Discovery Motions:** Wednesdays at **9:30 a.m.** in the Trial & Motion Courtroom

**DCM Compliance Conferences and Discovery Motions:** Wednesdays at **2:00 p.m.** in the DCM Courtroom

1. *Communications with the DCM Clerk, Part Clerk and Chambers.*
  - A. **DO NOT CALL CHAMBERS REGARDING SCHEDULING MATTERS AND REQUESTS FOR ADJOURNMENTS.** Any such calls will simply result in your being directed to the appropriate court clerk. Judge Scarpulla's court attorneys do not handle adjournments.
    - i. Adjournment requests for Wednesday morning Early Settlement Conferences should be directed to the DCM Clerk's office.
    - ii. Adjournment requests for Wednesday afternoon DCM compliance conferences and appearances should be made by contacting the DCM Clerk.
    - iii. Adjournment requests for Wednesday morning motions and other appearances scheduled in the Trial and Motion Courtroom should be made by contacting the Courtroom Part Clerk.
  - B. No *ex parte* communications.
2. *Motion Practice*
  - A. Motions submitted on default in Room 130 are generally not scheduled for oral argument.
  - B. Non-discovery motions with opposition will automatically be scheduled for oral argument in the Trial and Motion Courtroom for a Wednesday morning after the final appearance in the Submission Part in Room 130 at 60 Centre Street.
  - C. You need not send courtesy copies of motions.
  - D. Please do not copy the court on letters exchanged between counsel.
  - E. If a case has settled while a motion is *sub judice*, **please so advise the Trial and Motion Courtroom Clerk IMMEDIATELY!**
  - F. **Send NOTHING to chambers, unless previously directed to do so by the Court.** Stipulations, papers, etc. should be sent or delivered to the appropriate Clerk.
  - G. Please do not call Chambers or the Part Clerk to determine whether a decision has issued. Inquiries as to the status of motions can be obtained from the court's "Supreme Court Records On-Line Library" ("Scroll"), access to which is available at no charge under "Case Information" on the website of the court ( [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)).
3. *General Instructions for Completing Compliance Conference Stipulation and Order Forms*
  - A. Please write legibly with a black ball point pen. You must indicate the names, addresses, and telephone numbers of all counsel appearing at the conference.
  - B. Number the pages (e.g., 1 of 3, 2 of 3). At the top of page 1, please indicate whether this is the 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> Compliance Order.
  - C. Use firm cut-off dates such as "on or before December 31, 2009." Do not use "within 45 days," etc. D. If this is the 3<sup>rd</sup> Compliance Conference, please add the following language: "The parties have been advised that the dates contained herein will be strictly enforced and that failure to comply with this court's will result in the imposition of any appropriate sanction, including but not limited to monetary costs and sanctions, issue or defense preclusion, witness preclusion, and or the complete or partial striking of a pleading."
  - E. Do not leave the courtroom until either the Justice or one of the court attorneys have reviewed your completed forms.
4. *E-filing*

Part 52 is a presumptive e-filing part. The New York State Courts Electronic Filing System ("NYSCEF") is a means for filing legal papers and for serving those papers by electronic means. The system is accessible through a website located at this address: [www.nycourts.gov/efile](http://www.nycourts.gov/efile). In order to be able to use NYSCEF to file and serve documents, an attorney for a party to a case or a self-represented party must obtain a User Identification and Password. There is no fee for use of this system and courtesy copies of papers do not need to be provided in this part. For additional information, contact the NYSCEF Resource Center at (646) 386-3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us).

## **Trial Requirements**

1. **Prior to the start of trial**, please supply the court with the following:
  - a) All marked **pleadings** and **bills of particulars**.
  - b) All **prior decisions** in the case.
  - c) Any Notices to Admit.
  - d) Copies of transcripts of **depositions** intended for use at trial.
  - e) Proposed **jury verdict sheet**.
  - f) A list of **all** requested **PJI sections** from the most current volume to be included in the final charge to the jury. You may list the section by number only, if it does not call for any characterization of the evidence or the contentions of the parties. **If the section does call for a characterization or description of the evidence or contentions of the parties, you must supply such description of evidence or contention in writing. If you are requesting other language, not based on the PJI, you must provide the proposed language in writing, along with the appropriate citations. Please provide copies of any cases upon which you rely for charge language.**
  - (g) A short (one or two lines) **summary** of your party's claims to be used by the court as part of the preliminary instructions given

to the jury before opening statements.

(h) Copies of **cases** and **authorities** upon which you will be relying on for *in limine* or other applications. Provide a list of citations for the court reporter.

i) Copies of any **statutes** or **sections from the Administrative Code** or other **rules and regulations** which are pertinent to the case.

j) Three copies of a list of **proposed witnesses**. If a witness needs an **interpreter**, please indicate the language and any dialect. One copy goes to the part clerk, one copy to the court reporter and one part to the Court.

2. Please stipulate to all facts and documents not in dispute prior to trial. Have agreed-upon documents, photographs and other exhibits pre-marked into evidence by the court reporter while the jury is not present.

3. Please bring copies of all exhibits for all parties and the Court.

4. It is the duty of counsel, not court personnel, to make sure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street. Court personnel may only retrieve records from 60 Centre when not needed in the courtroom.

5. The court will not engage in *ex parte* communications. Any phone calls to chambers must be made with all parties present. Avoid letters and e-mails, but if sent they must be copied to the other parties, or they will be returned unread.

6. If you have a medical or other condition that prevents you from standing, please bring it to the Court's attention outside the hearing of the jury so that you are not put in an awkward position in front of the jury.

**HON. ALICE SCHLESINGER** Part 16, Medical Malpractice IAS Part (E-Filing), Room 222, Phone: 646-386-3318

**Motions:** Wed., 9:30 AM (Discovery), 2 PM (Substantive) **Conferences:** Wed., 9:30 AM

**HON. MARTIN SCHOENFELD** Part 28, Room 609, Phone: 646-386-3232

**HON. MARILYN SHAFER** Part 8, Guardianship Part, Room 278, 80 Centre Street, 646-386-3572

**HON. O. PETER SHERWOOD** Part 61, General IAS Part (Presumptive E-Filing Part), Room 341, 646-386-3854

#### **Conferences**

**Preliminary Conferences** in newly assigned cases: Wednesdays at 9:30 a.m.

**Compliance Conferences:** Wednesdays at 9:30 a.m. Counsel shall bring copies of the preliminary conference order and all prior discovery orders.

#### **Motions**

**General.** Motions are returnable in the Motions Submissions Part, Room 130, and will be decided without oral argument unless the court directs otherwise. Except in e-filed cases, courtesy copies shall not be submitted.

**Disclosure Disputes.** Counsel shall confer in a good faith effort to resolve disputes regarding disclosure without court action. If such efforts fail, counsel shall contact the Part Clerk at (646) 386-3854 to schedule a telephone conference with the court. Counsel for the party seeking disclosure shall initiate the call.

**Orders to Show Cause** are returnable in the Part and will be decided on the papers unless the court directs otherwise. Responses, if any, shall be delivered to the courtroom at least three (3) business days prior to the return date, unless the court indicates otherwise.

**Motions for Summary Judgment** shall be made within sixty (60) days of the date of note of issue or will be denied absent a showing of good cause. Counsel are encouraged to use the format authorized in Rule 19a of the Rules of the Commercial Division of the Supreme Court, Uniform Rules-Trial Courts §202.70(g).

#### **Adjournments**

The preliminary conference may not be adjourned without prior court approval. Compliance conferences may be adjourned by stipulation one time only for no more than two (2) weeks provided that deadlines fixed in any order of the court are unaffected. Motions and orders to show cause may be adjourned by stipulation one time only for no more than three (3) weeks. All stipulations of adjournment authorized by this rule shall be delivered to the court by fax, email or otherwise no later than 4:00 p.m. the business day preceding the appearance or return date. Any further adjournments require approval of the court.

All requests for adjournment shall be directed to the Part Clerk, James Adamo, at (646) 386-3854.

#### **Expert Disclosure**

Upon request, plaintiff(s) shall serve CPLR §3101(d) disclosure relating to experts not later than sixty (60) days before trial. All other parties shall serve their disclosure not later than forty-five (45) days before trial.

#### **Trial**

Trials are scheduled to proceed day to day until completed, unless the court indicates otherwise. Marked pleadings, a bill of particulars, if applicable, and a one paragraph summary of the contentions shall be filed with the Part as soon as the case is assigned to Part 61. Proposed jury instructions and verdict questionnaire shall be filed no later than at the end of plaintiff's case unless the court directs that they be provided at an earlier time.

**HON. MARTIN SHULMAN**, Part 1, General IAS Part and Complex Litigation Part (E-Filing), Room 1127B, 111 Centre Street, Phone: 646-386-5758

**Motions and Conferences:** Tues., on a staggered schedule. Any requests for adjournments must be made to the Part Clerk by conference call with all parties represented.

**HON. KAREN S. SMITH** City IAS Part 62, Room 280, 80 Centre Street, **Courtroom Clerk:** 646-386-3728. **DCM Courtroom**, Room 103, 80 Centre Street, DCM Clerk: 646-386-3687.

**Oral Argument on Non-discovery Motions:** Thursdays at 9:30 a.m. in the Part 62 Courtroom.

**DCM Compliance Conferences and Discovery Motions:** Thursdays at 2:00 p.m. in the DCM Courtroom (unless the Court schedules otherwise under special circumstances)

1. *Appearances:* Only attorneys familiar with a case may appear for discovery or settlement conferences. If an attorney who is not familiar with the case appears for a conference and is unable to participate in the conference or in settlement discussions, the Court will *sua sponte* adjourn the case and assess the party who appeared by such an attorney fees for each of the other litigants who appeared.

2. *Requests for Adjournments:*

A. **NO EX PARTE REQUESTS FOR ADJOURNMENTS.** Requests for an adjournment must be by telephone with all parties on the line, or in writing by fax to all parties. If the party seeking an adjournment has been given consent by all other parties to speak with the Court, the requesting party must 1) demonstrate such consent to the Court in writing, and 2) memorialize the substance of all conversations with the Court in writing to all parties and copied to the Court. **Failure to properly notify all parties of an adjournment may result in an order directing payment of attorney's fees for all counsel who appear where the conference cannot go forward.**

B. **DO NOT CALL CHAMBERS REGARDING THE SCHEDULING OF DISCOVERY CONFERENCES.**

i. Adjournment requests for Thursday afternoon DCM compliance conferences and appearances should be made by contacting the DCM Clerk no later than Tuesday at 5:00 p.m.

ii. Adjournment requests for Thursday morning motions and other appearances scheduled in the Trial and Motion Courtroom should be made by contacting the Courtroom Part Clerk no later than Tuesday at 5:00 p.m.

3. *Motion Practice:*

A. All discovery motions will automatically be pulled from Room 130 and referred to the DCM Part with the next scheduled conference unless, at a prior conference, the court has directed that the motion be made and *not* converted into a conference, in which case the moving party must so indicate on the notice of motion and flag it by circling or highlighting that directive in red.

B. Motions submitted on default (or without opposition) in Room 130 are generally not scheduled for oral argument.

C. Non-discovery motions with opposition will be scheduled for oral argument in the Part 62 Courtroom for a Thursday morning approximately two weeks after the final appearance in the Submission Part, subject to cancellation by the Court. **All papers are due at the time of submission in Room 130;** the Court will not, without prior approval from the Court, accept motion papers at the time of oral argument.

D. **DO NOT SEND COURTESY COPIES** of motions unless specifically directed to do so by the Court.

E. Do not copy the court on letters exchanged between counsel unless directed to do so by the Court.

F. If a case has settled while a motion is *sub judice*, **please so advise the Part 62 Clerk IMMEDIATELY!**

G. **Send NOTHING to chambers, unless previously directed to do so by the Court.** Stipulations, papers, etc. should be sent or delivered to the appropriate Clerk. Receipt of any papers by the Clerk does not constitute the Court's acceptance of such papers if untimely or otherwise unauthorized.

H. Do not call Chambers or the Part Clerk to determine whether a motion decision has been issued. Except in unusual circumstances, all motion decisions are scanned and available on the internet. Such inquiries are properly made by finding out

if a decision and order have been entered at the County Clerk's office.

I. Motion papers (including opposition, reply, etc.) are NOT to be sent to the Court via facsimile, unless so directed by the Court.

4. *Policy and Procedure Regarding In Camera Submissions to the Court:*

A. Where a party has demanded records that another party objects to on the basis of **privilege**, it is the obligation of the **objecting party** to bring a motion on notice or by order to show cause for a protective order from the Court, pursuant to CPLR 3103(b). Such a motion **must include**, in addition to any other items required or proper pursuant to any other provision of the CPLR, the legal basis for the party's claimed privilege, a general description of the documents demanded, and a detailed privilege log. Separately, after the motion has been filed, the objecting party must file with the Clerk of Part 62 (80 Centre Street, Room 280) a copy of the privilege log and **copies** of the documents, with each page Bates stamped, for *in camera* review. **Do not submit originals**, only copies. The copies submitted to the Court will be sealed by the Clerk.

B. This procedure does not preclude the party demanding the documents from filing a motion to compel pursuant to CPLR 3124, *in certain appropriate circumstances*. Where the party objecting to production of the documents has not filed a motion for a protective order within a reasonable time after objecting to the demand, a motion to compel production may be appropriate. If you are uncertain whether such a motion would be acceptable, please contact the Court or seek such guidance at your next scheduled compliance conference.

5. *Compliance Conferences:*

- i. Do **not** check in with the Clerk until all sides are present.
- ii. Specific instructions for completing conference orders/stipulations are posted in the DCM Courtroom; all such instructions must be complied with.
- iii. **The Note of Issue filing date will be established by the Court at the final Compliance Conference ONLY**, once all attorneys can certify - and the court can confirm - that all discovery is complete. A Note of Issue filed prior to obtaining leave of the Court and before all parties agree that discovery is complete will be stricken by the Court.

**Conferences:** There will be a calendar call at 9:30, 10:00 and 10:30 for all compliance conferences scheduled for 9:30 Thursday mornings. If parties who have been notified of the conference fail to appear by the third call, appropriate sanctions will be imposed.

**HON. JANE S. SOLOMON** Part 55, General IAS Part and Tax Cert and Condemnation Part (E-Filing), Room 432, Phone: 646-386-3289

**Motions:** Mon., 10 AM (unless otherwise directed. The court attempts to stagger appearances). Contested discovery motions will generally be set down for an appearance in the Part. Other contested motions will be argued as determined by the court. The Part Clerk will phone the movant and give notice of the date and time of argument. Movant must notify all parties and confirm availabilities. Because counsel are so consulted, adjournments beyond the first as of right are not freely given; except for personal emergencies, no consideration is given to requests for adjournments made after the Thursday before argument. Counsel for all parties must appear at all arguments. Absent court order, post note of issue dispositive motions shall be within 60 days thereof.

**Conferences:** Mon., AM or PM as set by the court. The court attempts to stagger appearances.

**Orders to Show Cause:** On orders to show cause returnable in the Part, originals of all subsequent papers should be delivered to the Part shortly after service. The court will attempt to review proposed orders as soon after presentation as possible. To expedite review, counsel may telephone the Part or the Law Secretary to make an appointment.

**Courtroom Operations:** Counsel in any case assigned to Part 55 who seek to establish or alter a discovery schedule should call the Part Clerk to arrange a conference. Written requests for conferences should be concise. Communications relating to all pending matters should be directed to the Part. Materials submitted for signature must be accompanied by a brief letter of explanation.

**Expert disclosure** is governed by the CPLR . Cf., Rule 11 infra.

**SPECIAL REFEREES' PART (PART SRP)**

**RULES AND LIST OF JUDICIAL HEARING OFFICERS AND SPECIAL REFEREES**

**SPECIAL REFEREES' PART (Part SRP), HON. JOHN BRADLEY, JHO, Presiding**

**RULES GOVERNING REFERENCES**

The Special Referee Assignment Calendar will be called promptly at 9:30 AM in Room 300 at 60 Centre Street, unless

otherwise posted. There is no second call of the calendar.

**Order of Reference; Information Sheet:** Issues referred to a Special Referee are limited to those specifically set forth in the Order of Reference. Unless otherwise provided in the Order, counsel must consult and, within 15 days from the date of the Order, the counsel for plaintiff/petitioner must submit a fully completed Information Sheet to the Special Referee Clerk, Motion Support Office, Room 119, at 60 Centre Street, by fax (212-401-9186) or e-mail (spref@courts.state.ny.us). The Information Sheet is accessible on the court's website (the address of which is: www.nycourts.gov/supctmanh) at the "References" link under "Courthouse Procedures". **It is vital that counsel set forth in the Information Sheet as accurately as possible the estimated length of the hearing and the number of witnesses to be called by each side; this information is required in order efficiently to assign the matter to a JHO/Special Referee.** Upon receipt of the completed Information Sheet, the Special Referee Clerk will place the matter on the calendar of Part SRP for the earliest available date. Cases are assigned to a JHO/Special Referee upon their first appearance in Part SRP and the hearing will commence on the original hearing date. Therefore, **all attorneys must have their witnesses and exhibits present and be ready to proceed to the hearing on the first appearance in Part SRP, subject only to the following procedures regarding adjournments.**

**Adjournments:** One adjournment (maximum four weeks) may be obtained on consent. A copy of a stipulation of all parties must be submitted to the Special Referee Clerk *in advance of the original Part SRP appearance date.* Prior to execution of the stipulation, counsel must consult with the Special Referee Clerk and obtain an adjourned date that is an available hearing date in the Part. That date must be inserted in the stipulation. No other adjournments will be allowed except upon a showing of extraordinary circumstances (e.g., sudden illness of counsel or a witness) upon application to Judge Bradley in Part SRP. If such an application is to be made, the applying attorney must notify all other attorneys *in advance of the appearance date.*

**Hearings:** The hearing will be conducted in the same manner as a trial before a Justice without a jury (CPLR 4318, 4320 (a))(the proceeding will be recorded by a court reporter, the rules of evidence apply, etc.) Unless otherwise directed by the JHO/Special Referee for good cause shown, **hearings shall proceed from day to day until completion.** To comply with this requirement, counsel must arrange their own schedules and those of their witnesses accordingly and, if needed, adjourn the commencement date of the hearing on consent as above provided.

**Restoration to Calendar:** A reference may be marked off, but only where a compelling reason is shown (e.g., bankruptcy stay (general scheduling preferences of counsel do not constitute such a reason)), or in the event of no appearance by either side. If the reference is marked off due to non-appearance, a new order from the assigned Justice will be required to restore the reference to the calendar. Counsel must serve upon the Special Referee Clerk a copy of any stay order or order lifting a stay previously directed.

**Mechanics of Obtaining Adjournments and Restorations:** Copies of stipulations for an initial adjournment in compliance herewith may be transmitted to the Special Referee Clerk by fax (212-401-9186) or e-mail (spref@courts.state.ny.us)(counsel for a party shall retain the original stipulation); if the said adjournment is requested in compliance with these Rules, no appearance will be required in these instances. As to restorations that do not require an order of the assigned Justice, contact the Special Referee Clerk.

**Communications Regarding References:** Please direct all inquiries to the Special Referee Clerk, Motion Support Office, Room 119 at 646-386-3028 or by e-mail.

**Judicial Hearing Officers / Special Referees:**

Hon. John A.K. Bradley, JHO	Part 90R		646-386-3028 (Special Referee Clerk)
Hon. Beverly Cohen, JHO	Part 84R	80 Centre St., Room 116	646-386-3719
Hon. Phyllis Gangel-Jacob, JHO	Part 91R	Room 665	646-386-3205
Hon. William McCooe, JHO	Part 92R	Room 527	646-386-3223
Hon. Stanley L. Sklar, JHO	Part 93R	Room 564	646-386-3165
Hon. Louis Crespo, Jr.	Part 85R	71 Thomas St., Room 203	646-386-3794

Hon. Marilyn B. Dershowitz	Part 80R	Room 651	646-386-3657
Hon. Nicholas Doyle	Part 87R	Room 561	646-386-3653
Hon. Lancelot B. Hewitt	Part 81/R	80 Centre St., Room 321	646-386-3680
Hon. Sue Ann Hoahng	Part 89R	80 Centre St., Room 476	646-386-3676
Hon. Howard G. Leventhal	Part 83R	Room 330	646-386-3630
Hon. Steven E. Liebman	Part 86R	Room 641	646-386-3662
Hon. Leslie S. Lowenstein	Part 82R	71 Thomas St., Room 300	646-386-3792
Hon. Marilyn Sugarman	Part 88R		

10/27/09

**HON. MICHAEL D. STALLMAN** Part 7, General IAS Part, Room 949, 111 Centre Street, Phone: 646-386-3746

**Motions:** Motions and orders to show cause are returnable for submission in the Motion Support Office Courtroom (Room 130) unless otherwise directed by the court. If required by the court, oral argument or conference will be scheduled for a later date that the court will determine.

**Conferences:** Conferences on pre-note cases are generally scheduled Tuesday and Wednesday mornings at 9:30 and 11:00 AM, or at such other day and time as the court may direct. Conferences on special proceedings may be directed by the court.

**Papers:** Counsel are encouraged to submit papers with a readable typeface in large print (e.g., Arial - 14 point).

**HON. MILTON A. TINGLING** Part 44, General IAS Part, Room 321, Courtroom Clerk: 646-386-3370

**HON. WALTER B. TOLUB** Part 15, General IAS Part and Tax Cert and Condemnation Part (E-Filing), Room 335, Phone: 646-386-3316

**Motions:** Fri., 9:30 AM **Conferences:** Fri., 11 AM

**HON. LAURA VISITACION-LEWIS** Part 26, Guardianship Part, Room 355, Phone: 646-386-3308

**Motions:** Thurs., 9:30 AM **Conferences:** Thurs., 2:15 PM

**HON. LOTTIE E. WILKINS** Part 18, Trial & Art. 81 Part, Room 104, 71 Thomas St., Phone: 646-386-3850

**HON. PAUL WOOTEN** Part 22 (Motor Vehicle Part), Room 136, 80 Centre Street, N.Y., N.Y 10013 Phone: 646-386-3271

DCM Clerk: 80 Centre Street, Room 102, 646-386-3682

DCM Courtroom (Mon. & Fri. AM): 80 Centre Street, Room 103, 646-386-3683; DCM Judicial Hearing Officer: Hon. William Leibovitz, JHO

Principal Court Attorney: 646-386-3580 Court Attorney: Maiysha Rashad, Esq. 646-386-3256

Courtroom Part 22 Clerk: 646-386-3271

Differentiated Case Managers: 646-386-3682

**Oral Argument on Motions:** Wednesdays at 9:30 a.m. in IAS Part 22 Courtroom, Room 136

**Status Conferences:** Tuesday and Thursdays at 9:30 a.m. in IAS Part 22 Courtroom, Room 136

**DCM Compliance Conferences:** Mondays and Fridays at 9:30 a.m. in the DCM Courtroom, Room 103

## 1. Communications with the DCM Clerk, Part Clerk and Chambers

### A. Scheduling Matters and Request for Adjournments:

For all scheduling matters and requests for adjournments, please call the appropriate Court Clerk. Do not call chambers. Neither the Justice nor her Court Attorneys handle adjournments.

- Adjournment requests for all appearances including oral arguments on motions, scheduled in Part 22 court room should be made by contacting the Part Clerk..

- Adjournment requests for Monday morning or Friday morning DCM compliance conferences or any other DCM appearance should be made by contacting the assigned DCM Case Manager. All inquiries concerning the filing of or extension of the time to file a Note of Issue should be directed to the DCM Clerk's office.

B. No *ex parte* communications. Please do not e-mail the Justice or her Court Attorneys. It is not necessary to copy the court on letters exchanged between counsel. Do not send anything directly to chambers, unless previously advised to do so by the Court. Stipulations, papers, CD-Roms, etc. should be sent or delivered to the appropriate Clerk. The Clerks accept documents for filing, where appropriate. Do not deliver opposition to motions pending in the **Submission Calendar** to any Clerk at 80 Centre Street.

## 2. Motion Practice

A. **All discovery disputes** should be directed to the assigned DCM Case Manager who will promptly schedule a resolution conference. Only after this conference is held shall any discovery motion be filed. The date the resolution conference occurred should be included in the good faith affirmation filed with the motion. If the Court has granted permission to a party to file a discovery motion without first scheduling a DCM resolution conference, please indicate this on the Notice of Motion and flag it by circling in red or highlighting that directive.

B. **Motions submitted on default** in the Submission Part, Room 130 at 60 Centre Street are generally **not** scheduled for oral argument.

C. **Motions with opposition** will automatically be scheduled for oral argument in the Part 22 Courtroom for Wednesday, 9:30 a.m., approximately two weeks after the final appearance in the Submission Part.

D. If a case has **settled** while a motion is *sub judice*, please advise the Part Clerk or chamber staff in writing **immediately**.

E. Except in unusual circumstances, all decisions are scanned and available on the internet and can be accessed through E-LAW or SCROLL ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). - click on "Case Information" on top of page). Please do not call Chambers or the Part Clerk to ask whether a decision has issued. Such inquiries are properly made to the County Clerk's office.

F. **All Dispositive Motions** must be made no later than 60 days after filing of the note of issue - no exception without leave of the court.

G. Do not attempt to file the note of issue if you have not completed all discovery before your deadline. You must schedule a DCM compliance conference to have the note of issue date extended to a date when **all** discovery is complete. This avoids unnecessary motion practice to strike the note of issue.

## 3. Appearances

A. Attorneys appearing for oral argument or any scheduled conference on any case must be thoroughly familiar with the case, and have authority to settle the case.

B Parties may request an adjournment by telephoning the Part Clerk at (646) 386-3271. An adjournment by telephone must be made by conference call and only on consent of all parties.

C. An appearance for a conference or oral argument scheduled in IAS Part 22 Courtroom will be excused only if a stipulation, executed by all parties fully resolving the pending motion or settling the case, is submitted to Room 136, two days prior to the appearance date.

D. An appearance for a conference scheduled in DCM Courtroom may be excused, for good cause, by contacting the assigned DCM Case Manager in Room 102, two days prior to the appearance date.

**HON. LOUIS B. YORK** Part 2, General IAS Part, Room 205, 71 Thomas St., Phone: 646-386-3852

**Argued Motions:** Wed., 9:30 AM. **Conferences and Discovery Motions:** Wed., 2 PM

**Courtroom Operations:** The court will consider applications for adjournments only by telephone conference including all parties, or by stipulation with permission of the court, or by application on the return date of the motion or conference.

### Listing of Parts in Order and Justices Assigned (excluding Commercial)

<u>Part</u>	<u>Justice</u>	<u>Part</u>	<u>Justice</u>	<u>Part</u>	<u>Justice</u>
1	Shulman	21	Beeler	44	Tingling
2	York	22	Wooten	46	Figueroa
		23	Braun	48	Diamond
5	Rakower	24	Gesmer		
6	Lobis	25	Hagler		
7	Stallman	26	Visitacion-Lewis	51	Evans
8	Shafer	28	Schoenfeld	52	Scarpulla
9	Cooper	29	Carey	54	Kornreich
10	Gische	30	Heitler	55	Solomon
11	Madden	31	Drager	57	Friedman
12	Feinman	32	Huff	58	Mills
15	Tolub	35	Edmead	59	James
16	Schlesinger	36	Ling-Cohan	61	Sherwood
17	Goodman	38	McKeon	62	Smith
18	Wilkins	40, 27C	Gammerman (JHO)		
19	Lehner				
20	Kaplan				

## RULES

In addition to the Rules that follow, procedures have been developed to simplify and expedite the submission of papers to the court in electronically-filed cases. Many documents can be submitted, processed by the court and acted upon by the assigned Justice without counsel having to make any trip to the courthouse. Counsel are advised to consult the court’s Protocol on this subject (posted on the court’s website at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). Parts II and IV of these Rules are inapplicable to condemnation and tax certiorari cases. Emergency medical hearings and proceedings under the Mental Hygiene Law have their own special rules. Part V is applicable to matrimonial cases only.

### I

#### RULES REGARDING THE PUBLIC ACCESS ON-LINE PROJECT (“SCROLL”) <sup>2</sup>

**Rule A-1. Information in Documents Filed with the County Clerk and the Court.** Attorneys filing pleadings and other documents with the County Clerk or the Court that fall within a category of document that is, as explained in the Court’s Notice to the Bar on the Public Access Project, included in the Scroll Public Access Project system or that shall hereafter be so included shall not set out in such documents social security numbers, bank account numbers, the names of minor children, dates of birth, health information concerning any individual and other similar sensitive information, or, if doing so is unavoidable, shall, to the extent practical, provide only a portion of the information (e.g., some but not all digits of an account number, initials only in place of the names of minor children). If circumstances make it unavoidable to include such information in full in a document that is or may be included in the system, the party preparing the document shall apply to the Court, in the manner set forth hereafter, for a directive restricting access to the document in the system. The following documents will not be included in the Scroll Public Access Project system:

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<sup>2</sup> The Rules set out in Part I were first promulgated by Notice to the Bar dated July 7, 2006, with an effective date of Sept. 15, 2006.

documents filed or issued by the Court in matters pursuant to the Mental Hygiene Law, matrimonial cases, and cases that are sealed by order of a Justice pursuant to Part 216 of the Uniform Rules for the Trial Courts, and other individual documents as to which the Justice assigned so directs.

**Rule A-2. Application for Restriction of Access to Records.** A party or person who claims that the availability of a document in the Public Access Project system may cause harm to that party or person or who seeks to limit access in compliance with Rule 1 may apply to the Court for a directive restricting access. Any such application shall be made as follows. If the case has been assigned to a Justice, a request shall be made to the Justice by letter describing the document as to which a restriction on access is sought and explaining the reasons why such a restriction is appropriate. If the case has not been assigned to a Justice, the party shall direct such a request to the Administrative Judge. The Court on its own initiative may direct that access be restricted. An interested party or person may apply by letter to remove a document from the Scroll database if, notwithstanding this notice and rules, a document is posted on the Public Access Project system that contains sensitive information access to which in this form causes harm to that party or person.

**Rule A-3. Form of Restriction on Access to Records.** Where the Court grants a request to limit access to a document in the Scroll Public Access Project system or issues a directive sua sponte, the directive shall take the form of an administrative direction to the staff of the Court that the document in question not be included in the Scroll system or, if already included therein, that it be deleted from the database. Any such directive as may be issued in a case in which documents are otherwise available in the Scroll system shall not affect the status of the County Clerk hard-copy case file, which is open to the public unless otherwise ordered by the Court pursuant to Part 216 of the Uniform Rules for the Trial Courts.

**Rule A-4. Notices of Motion and Notices of Petition.** Any party who files a notice of motion or notice of petition with the Court shall submit therewith to the relevant back office a photocopy of the notice (not including the supporting papers).

## II GENERAL RULES

**Rule 1. Appearances by Counsel; Knowledge and Authority.** Counsel who appear at preliminary conferences must have sufficient familiarity with the case and authority to be able to discuss a discovery schedule in a meaningful way and to enter into agreements with regard thereto. Counsel who appear at other conferences and at the argument of motions must be familiar with the entire case in regard to which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients.

**Rule 2. Settlements and Discontinuances; Change of Counsel.**

(a) If an action is settled or discontinued, a stipulation shall be submitted promptly to the County Clerk with the appropriate fee (Cashier's Office, Room 160) and a copy shall be forwarded to the Part in question. If the case is otherwise disposed of, in whole or in part, counsel for the defendant affected shall immediately file a letter with the Clerk of the Part. If at the time of a settlement, discontinuance or other disposition a submitted motion is sub judice that is rendered moot, in whole or in part, by the disposition, or where a motion

previously submitted is withdrawn, it is imperative that the Part be informed immediately.

(b) If counsel is changed on consent, a copy of the form shall be filed in the Trial Support Office (Room 158). Filing with the County Clerk does not suffice. Absent submission of a consent form, an attorney of record will continue as such unless a motion for leave to withdraw is granted. If such an order is issued, counsel must serve a copy on the Trial Support Office and all other counsel. A notice of appearance shall be filed by substitute counsel with the Trial Support Office and the Clerk of the Part.

**Rule 3. Information on Cases.** County Clerk data, case history information from the court’s Civil Case Information System, and many documents from the case file of most cases in the court (e.g., pleadings, decisions, orders, notes of issue, judgments) are available on-line in the Supreme Court Records On-Line Library (“Scroll”) of the County Clerk of New York County and the New York County Supreme Court, accessible on the court’s website at [www.nycourts.gov/supctmanh/](http://www.nycourts.gov/supctmanh/). Decisions of the court with County Clerk entry stamp are posted in Scroll very promptly after their issuance. Information on scheduled court appearances and other case activity, including the issuance of decisions and orders, can also be obtained from Scroll, as well as from CaseTrac, the court system’s case tracking and notification service, private services, courthouse terminals, or the New York Law Journal. The Clerk of the Part can also provide information about scheduling in the Part (trials, conferences, and arguments on motions in the Part). Counsel should not telephone Chambers.

**Rule 4. Papers by Fax.** Unless indicated otherwise by the court in a particular case or in the Basic Information section above, Justices do not accept papers by fax.

### III CONFERENCES AND DISCOVERY

**Rule 5. Preliminary Conferences; Requests.**

(a) A preliminary conference will be held or, in Motor Vehicle cases and most tort cases against the City of New York, an automated Differentiated Case Management (“DCM”) scheduling order issued (i) within 45 days of assignment of a case to a Justice, unless impracticable for unusual reasons; or (ii) where a Request for Judicial Intervention is accompanied by a dispositive motion, within 45 days following disposition of such motion (if the case is not mooted by that disposition). Cases will be assigned to a DCM track (see Uniform Rule 202.19(b)) upon filing. The court will afford all parties an opportunity to raise objections to the track assignment or any DCM scheduling order issued without a conference. Requests for preliminary conferences in unassigned cases should be filed with an RJJ in the Trial Support Office (Room 158). In assigned cases, if the court itself does not direct a conference in a decision nor issue an order scheduling pretrial proceedings, counsel should contact the Part Clerk.

(b) The court utilizes distinct forms of preliminary conference order in General, Medical, Dental and Podiatric Malpractice, City, Matrimonial, and Motor Vehicle cases. See the website (at [www.nycourts.gov/supctmanh/](http://www.nycourts.gov/supctmanh/), under “Forms”) for these forms.

**Rule 6. Adjournments of Conferences.** Except as otherwise provided in the Basic Information section

above or in Rule 26, adjournment of conferences will be allowed only as follows. The parties may adjourn any preliminary conference once for no more than 21 days, but only by submission of a written stipulation to the Part Clerk on or before the scheduled date thereof. Appearance by counsel is not required. Further adjournment of preliminary conferences and adjournments of compliance and pretrial conferences will be allowed only with permission of the court for good cause.

**Rule 7. Consultation Prior to Preliminary and Compliance Conferences.** Prior to a preliminary or compliance conference, counsel for all parties shall consult one another about, and shall make a good faith effort to reach agreement on, (i) resolution of the case, in whole or in part, and (ii) discovery and any other issues to be discussed at the conference.

**Rule 8. Discovery Schedule.** Strict compliance with all discovery orders is required. See *Kihl v. Pfeffer*, 94 N.Y.2d 118 (1999). Unexcused or unjustified failure to comply with deadlines fixed by the court, including those set out in Preliminary Conference Orders, may result in an award of costs, conditional or otherwise, or the imposition of another penalty authorized by CPLR 3126. Unless otherwise provided in the Basic Information section above or in the order, no extensions of deadlines set forth in a preliminary conference, compliance conference or other discovery order shall be allowed except with permission of the court for good cause shown.

**Rule 9. Medical Authorizations.** When a defendant in a personal injury action serves a demand for authorizations together with a demand for a bill of particulars, counsel for plaintiff shall serve the authorizations with the bill.

**Rule 10. Disclosure Disputes.** Prior to making a discovery motion, counsel shall consult one another in a good faith effort to resolve any discovery disputes (see Uniform Rule 202.7). If a dispute is not thus resolved, the party seeking disclosure, unless otherwise directed in the Background Information section above, is advised to contact the Part Clerk promptly, and within any applicable deadline, for the purpose of arranging a conference, in court or by telephone.

**Rule 11. Expert Disclosure.** Unless otherwise directed by the court in a preliminary conference order or otherwise, a party having the burden of proof shall serve a response to an expert demand pursuant to CPLR 3101(d) no later than 30 days prior to the date set by the court for trial. Within 15 days after receipt of this response any adverse party shall serve its response.

**Rule 12. Conferences Regarding Settlement of Actions by Infants and Others.** Any proposed infant's compromise or other proposed settlement pursuant to CPLR 1207 shall be considered by the court at an appearance in court on the record. An attorney seeking approval of such a proposal shall serve on all parties, at least five days prior to the scheduled appearance, a Notice of Conference on Proposed Infant's [or other] Compromise. This Notice shall indicate the date, time and place of the conference. A copy of the proposed order of approval shall be annexed to the Notice unless previously served upon all parties. Said attorney shall submit to the court at the conference proof of service of such Notice.

## IV MOTIONS

**Rule 13. Motions on Notice; Orders to Show Cause.**

(a) Motions brought by notice of motion shall be made returnable in the Motion Support Office Courtroom 130. Relevant procedures are explained on the court’s website (see “Courthouse Procedures” at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). Depending upon the assigned Part, contested motions submitted in the Motion Support Office Courtroom are submitted without argument, or rescheduled for oral argument if so directed by the assigned Justice. For Justices who schedule argument on a case-by-case basis, notice of the argument date will be transmitted by the court. Counsel may ascertain how a motion submitted in Courtroom 130 was marked by consulting the court’s website (under “Motion Support Calendars”) or Scroll, or, on the two days immediately following the submission date, the New York Law Journal.

(b) Motions should be brought on by order to show cause only in a proper case (CPLR 2214 (d)). Unless otherwise directed in the Basic Information section above or in an order to show cause, original opposition papers on orders to show cause made returnable in the Part shall be delivered to the Part Clerk at least one business day prior to that date and reply papers should not be submitted.

**Rule 14. Motion Papers.**

(a) Counsel must attach to motion papers copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion. Documents in a foreign language shall be properly translated (CPLR 2101(b)). Whenever reliance is placed upon a decision or other authority not officially published or readily available to this court, a copy of the case or of pertinent portions of the authority shall be submitted with the motion papers. Courtesy copies shall not be submitted unless requested by the court, but such copies are required in electronically filed cases (see the court’s Protocol for e-filed cases on the website ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh), under “E Filing”)). Exhibits should be tabbed and be legible; a typed version of any exhibit that is difficult to read should be submitted with the original. Exhibits printed on both sides of the page should be bound and tabbed on the side.

(b) Unless advance permission otherwise is granted by the court for good cause, memoranda of law shall not exceed 30 pages each (exclusive of table of contents and table of authorities) and affidavits/affirmations shall not exceed 25 pages each.

(c) The CPLR does not provide for sur-reply papers, however denominated. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Support Office Courtroom (Room 130), or after argument in the Part, if any, except with the advance permission of the court. Materials presented in violation of this Rule will not be read.

**Rule 15. Oral Argument; Adjournments.**

(a) Calendars of motions to be argued in the Parts are published on the morning of the argument date and on the day before in the New York Law Journal under each Part. Argument information is available on a case-by-case basis in Scroll, accessible on the court’s website (at [www.nycourts.gov/supctmanh/](http://www.nycourts.gov/supctmanh/)).

(b) Unless provided otherwise in the Basic Information section: argument may be adjourned for good cause; there shall be only one adjournment, for no more than 14 days, unless otherwise directed by the court. A

request for an adjournment shall be made prior to the scheduled date.

**Rule 16. Orders.**

(a) A copy of any order affecting the caption of a case (e.g., amendment, substitution, correction of errors) shall be served by counsel upon the Trial Support Office (Room 158) and upon the County Clerk (Room 141B) so that the court’s records and the County Clerk’s records may be corrected. A copy of any order affecting the trial status of a case (e.g., striking a note of issue) shall be served on the Trial Support Office.

(b) Proposed counter-orders submitted to the court pursuant to Uniform Rule 202.48 (c) (2) shall be marked to identify all respects in which the proposal differs from the submission to which it responds.

**Rule 17. Motions for Summary Judgment.** Unless otherwise provided in a particular case in the preliminary conference order or other directive of the Justice assigned, a motion for summary judgment shall be made no later than 120 days after the filing of the note of issue, except with leave of court for good cause shown.

**Rule 18. Neutral Evaluation Program.** City cases and many other cases will be referred to the court’s Neutral Evaluation Program (informally known as “Mediation”) after filing of the note of issue. The procedures of this program are available on the court’s website ([www.nycourt.gov/supctmanh](http://www.nycourt.gov/supctmanh) under “ADR Programs”).

**V  
TRIALS**

This section sets forth trial procedures generally applicable to cases to be tried in pure IAS Parts (i.e., not including cases scheduled for trial through the Administrative Coordinating Part (Part 40) or the City Trial Part (Part 27 C)). However, since the nature of particular cases may make departure from these rules efficient and appropriate, counsel should in every instance confirm with the court at the pre-trial conference the Justice’s directive regarding applicability of these procedures to the case.

**Rule 19. Pretrial Conference.** In cases to be tried in IAS Parts (i.e., not including cases scheduled for trial through the Administrative Coordinating Part (Part 40) or the City Trial Part (Part 27 C)), the court will conduct a pretrial conference at which settlement will be explored and a trial date will be confirmed or a firm date set. Prior to the pretrial conference, counsel shall confer in a good faith effort to identify issues not in contention, resolve all disputed questions without need for court intervention, and settle the case. Unless otherwise directed by the court, each party must be represented at the pretrial conference by counsel having full knowledge of the case and specific authority to settle or the ability immediately to contact by telephone a person with such authority. To permit the fixing of a trial date, counsel must, prior to the conference, consult their own schedules and those of their witnesses and be prepared to furnish a realistic estimate of the trial’s length and discuss a suitable trial date unless previously fixed.

**Rule 20. Trial Schedule in Pure IAS Parts.**

(a) Insofar as possible, trials in pure IAS Parts will be scheduled at least one month in advance. As the schedules of counsel and witnesses will have been taken into account in determining the trial date, counsel will be expected to be ready to proceed at that time either to select a jury or to begin presentation of proof. Hence, once a firm trial date is set and counsel are so informed, counsel must immediately reconfirm the availability of witnesses and their own schedules. If for any reason, including trial commitments in other Parts or courts, counsel are not prepared to proceed on the scheduled date, counsel must inform the court of the difficulty within seven days of the date on which counsel were given the firm trial date. Absent extraordinary circumstances, failure of counsel to provide such notification will be deemed a waiver of any objection to the trial date.

(b) The court will endeavor, through contact with Justices in other Parts and courts, to resolve trial scheduling difficulties for counsel who notify the court in accordance with subdivision (a) of this Rule and in instances of extraordinary and unanticipated conflicts. The court will resolve such problems in accordance with Part 125 of the Rules of the Chief Administrator (Uniform Rules for the Engagement of Counsel), taking into account the need to conserve judicial trial time or the time of jurors, the demands upon trial counsel, and the importance of the clients' right to the attorney of his or her choice.

(c) The jury shall be selected in accordance with Uniform Rule 202.33.

**Rule 21. Pretrial Identification of Exhibits and Deposition Testimony in Pure IAS Parts.** Counsel for the parties shall consult prior to trial and attempt in good faith to agree upon the exhibits and portions of deposition testimony (with the deletion of irrelevant matter) that will be offered into evidence on the direct case without objection.

**Rule 22. Marked Pleadings and Other Pre-Trial Submissions in Pure IAS Parts.** In cases to be tried in IAS Parts, unless the court directs otherwise, at least ten days prior to trial or at such other time as the court may direct, counsel shall submit to the court marked pleadings, the bill of particulars, and a list of witnesses (direct case); and in a jury case, requests to charge, a proposed verdict sheet, and, as appropriate, a memorandum of law or copies of authorities addressed to any unusual jury charge requests; and, in all jury cases in which doing so will facilitate efficient presentation of proof and in all non-jury cases, pretrial memoranda. If counsel wishes the court to charge verbatim from the Pattern Jury Instructions, it is sufficient if the request cites the PJI charge by number only. All other requested charges should be written out in full.

**Rule 23. Subpoenaed Records.** Subpoenaed records should be directed to and may be reviewed at the Subpoenaed Records Office, 60 Centre Street, Room 145M.

## VI MATRIMONIAL RULES

The following Rules shall apply to all matrimonial cases and shall take precedence over any inconsistent Rule set forth above. Otherwise, the foregoing rules are applicable in matrimonial cases.

**Rule 24. Appearances at Conferences.** Counsel and client must appear at the preliminary conference, all compliance conferences and the pre-trial conference. Failure to appear may result in costs or sanctions being

imposed against the defaulting party.

**Rule 25. Submissions at Preliminary Conference.** Each party is required to submit at the preliminary conference a properly certified net worth statement and a copy of the retainer agreement in accordance with Section 202.16 of the Uniform Rules for the Trial Courts.

**Rule 26. Adjournments.** No stipulations of adjournment will be honored without prior approval of the court.

**Rule 27. P.E.A.C.E. Program.** Except for cases in which there has been a history of orders of protection, parties with unemancipated children should be aware that the Justice may assign the parties to the P.E.A.C.E. Program.

**Rule 28. Pre-Trial Conference.** Unless directed otherwise, all cases scheduled for trial must appear for a pre-trial conference on a date set by the court. All motions *in limine* must be presented at this time and counsel should be prepared to discuss all evidentiary issues.

**Rule 29. Mandatory Pre-Trial Submissions.** At the pre-trial conference, counsel shall provide his or her adversary and the court (a) marked pleadings (if grounds are in issue), (b) proposed statement of disposition, (c) child support worksheet (if applicable), (d) updated net worth statement, (e) list of all proposed exhibits, (f) witness list, (g) any expert report not previously provided, (h) pre-trial memoranda and (i) proof of filing of the note of issue.

**Effective Date: April 17, 2006**

**THE JUSTICES OF THE SUPREME COURT,  
CIVIL BRANCH, NEW YORK COUNTY**