

JUSTICE ANDREA MASLEY

Trial Rules for Part 48

Updated: 3/1/2018

SUPREME COURT
COMMERCIAL PART
COURTROOM 242
60 CENTRE STREET
NEW YORK, NY 10007
PHONE: 646-386-3265
FAX: 212-618-0571

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| Part Clerk: | Brendan Hanson | 646-386-3265 | bhanson@nycourts.gov |
| Law Clerk: | Victoria G. Corbo, Esq. | 646-386-4381 | vcorbo@nycourts.gov |
| Law Clerk: | Tyler D. Evans, Esq. | 646-386-4381 | tdevans@nycourts.gov |
| Law Clerk: | Lawson Huynh, Esq. | 646-386-4381 | lhuyh@nycourts.gov |

I. Prior to the Commencement of Trial

1. **Pre-trial Conference:** If a matter is trial ready and trial issues have not been resolved in a prior conference or by stipulation, the parties shall immediately contact the Part Clerk to schedule a pre-trial conference. Otherwise, the parties shall meet with Justice Masley one week prior to the commencement of trial.
2. **Motion in Limine** must be made at least 60 days prior to the commencement of trial.
3. **Electronic submissions** to the court shall be in text searchable format.
4. **Direct Testimony in Affidavit Form:** All direct testimony of a party's own witness shall be submitted in **affidavit form**. Upon being called at trial, a witness shall first swear to the contents of his/her affidavit, which is followed by opposing counsel's objections (if any) to the testimony, followed by cross-examination, and re-direct examination (if any). Parties shall exchange direct testimony affidavits, 10 business days prior to the commencement of the trial. **Direct testimony affidavits should be delivered directly to the Part and e-filed 10 business days prior to the trial.**
Exception: Where the witness is not within a party's control, counsel need not submit a direct testimony affidavit from him/her.

5. **Witness Lists:** Parties shall exchange witness lists 10 business days prior to the commencement of trial. The witness list shall designate whether the witness is being called as an “expert” or “fact” witness. If designated as an expert witness, it should be indicated whether the parties agree or dispute the witness’ status. Objections to the introduction of a particular witness shall be raised at trial. **Witness lists should be delivered directly to the Part 10 business days prior to the commencement of trial.**

6. **Trial Exhibits:** Parties shall exchange exhibit books 20 business days prior to the commencement of trial. Counsel shall pre-mark all the exhibits prior to trial, and must state for each exhibit if it is agreed to or disputed between the parties as admissible evidence. When marking exhibits, counsel shall use numbers and not letters, e.g., P1-P100; D1-D100. All exhibit pages must be one sided. Deposition transcripts shall be in miniscript format. Exhibits for which the parties do not dispute admissibility shall be immediately entered into evidence upon introduction at trial. Otherwise, objections to the introduction of a particular exhibit shall be raised at trial. **Trial exhibits should be delivered directly to the Part. Each trial exhibit book may not exceed 2 inches in thickness.**

- Note: Parties shall be prepared to provide the witness being questioned one paper copy of every document that is being introduced at trial.

7. **Pre-Trial Memoranda and Statements of Agreed Upon Facts:** Should be sent directly to the Part and e-filed 10 days prior to the commencement of trial. Only a Joint Statement of Agreed Upon Facts will be accepted; if there are no facts to which the parties agree, the parties are not to submit a statement.

8. **Marked Pleadings:** Should be sent directly to the Part and e-filed 10 days prior to the commencement of trial.

9. **Foreign Translator:** Where a translator is needed, the party shall notify the Part Clerk at least 30 days prior to the commencement of trial. Please notify the Part Clerk of the name of the witness, date of anticipated testimony, and language and dialect spoken.

10. **Confirmation of Trial Date:** Parties shall notify the Part Clerk 7 business days prior to the commencement of the trial to confirm that the trial is going forward, as scheduled. Applications for adjournments will not be entertained absent good cause, and shall be directed to chambers (vcorbo@nycourts.gov) no later than 2

weeks prior to the commencement of trial. There shall be **no adjournment of a trial unless there is a demonstration of good cause.** Further, no continuance will be granted if a witness is unavailable to testify unless there is a demonstration good cause.

11. **Provide Information to the Court Reporter:** The morning/afternoon that the trial is set to begin, parties shall provide a copy of the witness lists, including their contact information, a glossary of names, and any unusual words and/or acronyms, that they anticipate using during the trial to the Court Reporter. Parties shall also provide the Court Reporter with an exhibit list, identifying each document and document number.
12. **Demonstrative Evidence and Electronic Media:** Please contact the Court (vcorbo@nycourts.gov) at least 5 business days prior to the commencement of trial for permission to use demonstrative evidence, including charts, graphics, enlarged contract language, video depositions, and electronic media devices. The Court encourages the use of technology to expedite the trial, e.g. real time transcription.
13. **Jury Trials:** For jury trials, the parties shall submit to the Court, at least 10 business days prior to trial, a witness list, proposed jury instructions, and a proposed verdict sheet. If the proposed jury instructions are verbatim from the Pattern Jury Instructions, providing the PJI numbers will be sufficient. If a PJI instruction is modified, exact language shall be supported by appropriate authority and a redline version of the changes must be submitted.

II. Post-Trial

1. **Post-trial Memoranda Briefs and Proposed Findings of Facts/Conclusions of Law, with attached exhibits referenced therein:** Following the conclusion of trial, the parties shall submit post-trial memoranda briefs in both hard copy and in electronic format text searchable (such as on disc or email to vcorbo@nycourts.gov). All referenced exhibits must be attached to the hard copies. Hard copies should be sent **directly to the Part and must be E-filed.** Post-trial memoranda are not to exceed 25 pages. Findings of Fact/Conclusions of Law are optional and have no page limit.
2. **Discarding of Trial Materials:** After a decision is issued, the court will discard all post-trial submissions and trial exhibits. All other materials used during the trial must be removed within 48 hours of the conclusion of trial. All materials not timely removed will be discarded.