

HON. EILEEN C. DALY-SAPRAICONE
Supreme Court of the State of New York
10th Judicial District – Nassau County
100 Supreme Court Drive, 1st Floor, Courtroom 151
Mineola, New York 11501
Chambers Telephone: (516) 493-3155

IAS PART 24 – RULES & PROCEDURES

(Effective as of September 12, 2022)

Matters appearing before the Honorable Eileen C. Daly-Sapraicone, Justice of the Supreme Court, Nassau County, shall be conducted pursuant to the following information, practices, rules, and procedures:

STAFF:

Principal Law Clerk: Marissa J. Pullano, Esq.
Part Secretary: Danielle Cipolla
Courtroom Clerk: Danielle O’Malley
Phone: (516) 493-3155
Email: JudgeDalySapraiconeRemote@nycourts.gov

IMPORTANT PHONE NUMBERS:

Motion Support: (516) 493 – 3148
Ex Parte Support: (516) 493 – 3101
Order To Show Cause: (516) 493 – 3201
Infant Compromise: (516) 493 – 3049

I. Communications with the Court

A. *Correspondence.* Correspondence to the Court shall, without exception, be copied to all adversary counsel and *pro se* (self-represented) litigant(s). Correspondence between counsel and/or *pro se* (self-represented) litigant(s) shall not be copied to the Court unless there is some specific **judicial** purpose to be served by transmitting copies to the Court. All correspondence to this part should be made via email to JudgeDalySapraiconeRemote@nycourts.gov.

DO NOT FAX CORRESPONDENCE AS IT WILL NOT BE READ.

THE COURT WILL NOT ACCEPT EX PARTE COMMUNICATIONS ON SUBSTANTIVE ISSUES.

B. *Telephone Calls.* Telephone calls to Court staff are permitted only in urgent situations requiring **immediate** attention that cannot be attained by correspondence (See Rule III[L] Adjournments).

C. The Court does **NOT** permit litigation by way of letter correspondence to the Court, or by way of being copied with letter correspondence by and between counsel. Any such submission shall be rejected by the Court without further action or consideration.

D. *Email.* Emails to the Court and Court staff should be concise, stating the relief or action requested to be taken by the Court. All parties must be copied on the email. As stated above, all email correspondence should be made to JudgeDalySapraiconeRemote@nycourts.gov. Emails, initiated by counsel or *pro se* (self-represented) litigant(s), that are sent directly to Court staff without being sent to the Part's Remote email address will be disregarded.

II. E-Filing Rules

A. *E-Filing Rules.* Counsel and *pro se* (self-represented) litigant(s) shall familiarize themselves with the statewide E-Filing Rules (Sections 202.5-b and 202.5-bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile).

General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or nyscef@nycourts.gov. Information about local procedures are available at: [EFilingProtocol.pdf \(nycourts.gov\)](#). Training resources are available at: [NYSCEF Training Resources \(state.ny.us\)](#).

All documents in mandatory e-filed cases, except documents subject to the opt-out provision of Section 202.5-bb of the Uniform Rules for the New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, are to be filed through the New York State Courts E-Filing System (NYSCEF). All submissions to the Court, except correspondence (see Rule I[A], *supra*), must be electronically filed.

B. *Responsibility of Counsel.* All attorney(s) and *pro se* (self-represented) litigant(s), if any, are responsible for ensuring that a working email address is affiliated with the NYSCEF system. Chambers is NOT responsible for adding or deleting any email addresses from the NYSCEF system.

Working Copies. Counsel and *pro se* (self-represented) litigant(s) MUST provide working copies of all legal papers which require judicial action (e.g., motions, notices of settlement, ex parte applications and proposed orders). The working copy of a motion must include all documents filed in support of the motion, including exhibits **WITH external tabs**, as required by Rule IV[A][5] below. Working copies shall be mailed or hand-delivered to Chambers, to be received by Chambers no later than the return date or notice of settlement date, or as otherwise directed, or

permitted by the Court. Please do not include a self-addressed stamped envelope with the working copies.

All working copies MUST include a copy of the NYSCEF Confirmation Notice, firmly fastened, and must comply with all of the requirements of the Nassau County and Supreme Courts E-Filing Rules. The Confirmation Notice is generated when the case is e-filed and is available in the specific case file at www.nycourts.gov/efile. Working copies that do not include a NYSCEF Confirmation Notice will be rejected.

Counsel shall **not** submit working copies of letters to the Court that have been uploaded to NYSCEF where such correspondence has been emailed to Chambers in accordance with Rule I[A], *supra*.

III. Court Conferences

A. *General Rules.* All conferences with the Court are conducted promptly at 9:30 a.m. weekdays, in the Nassau County Courthouse, unless otherwise directed. Counsel, including per diem covering counsel and *pro se* (self-represented) litigant(s), must appear on time, be fully familiar with the action(s) on which they appear, be authorized and prepared to discuss all factual and legal issues presented by the litigation and settlement demands or offers, and be authorized to enter into any agreement on behalf of their client.

If counsel or *pro se* (self-represented) litigant(s) are unable to appear on time due to unforeseen circumstances (i.e., delays due to inclement weather or road closures), he/she should contact opposing counsel, AND advise the Part Clerk or Court staff, by telephone, as soon as possible.

TARDY ARRIVALS WILL NOT BE TOLERATED.

Counsel and *pro se* (self-represented) litigant(s) scheduled to appear simultaneously before this Court and another court must communicate that fact to Chambers prior to the date of appearance so the conflicting appearances can be reconciled. Counsel and *pro se* (self-represented) litigant(s) are not to rely on opposing counsel or *pro se* (self-represented) litigant(s) to advise the Court of their conflict at the time the case is called. In the event that counsel or *pro se* (self-represented) litigant(s) do not advise the Court of a conflict, the Court may proceed in the absence of that counsel and/or *pro se* (self-represented) litigant.

B. Preliminary Conferences

1. *Requests to Adjourn Preliminary Conferences:* Preliminary Conferences (hereinafter “PC”) shall be held in accordance with the rules set forth in 22 NYCRR Section 202.19 in the Preliminary Conference Part of this courthouse, not before Justice Daly-Sapraicone. The PC will be scheduled by the Clerk of that part. Accordingly, PC adjournment requests are to be

addressed to the DCM Clerk's office or Preliminary Conference Part at (516) 493-3120, **NOT** to Chambers.

C. *Compliance with Preliminary Conference Orders.*

At the Preliminary Conference, the parties will set specific dates for completion of various items of discovery, the date by which all disclosure must be completed, and dates for a Compliance Conference/Alternative Dispute Resolution ("ADR") Conference. All counsel and *pro se* (self-represented) litigant(s) are expected to abide by, and comply with, the Court's discovery schedule and deadlines. No modifications of the dates set by the Court are permitted, except by Court approval or pursuant to Court order.

Parties who have a discovery dispute are NOT to wait until the Compliance Conference to bring such dispute or complaint about non-disclosure to the Court's attention. Rather, counsel or *pro se* (self-represented) litigant(s) who believes that discovery is not being conducted in accordance with the Preliminary Conference (or other Court) Order is to discuss, in good faith, as required by Court Rule Section 202.7, the claimed non-compliance with the counsel or *pro se* (self-represented) litigant(s) who is allegedly not compliant with the Court Order. A pro forma letter does not constitute a good faith effort. There must be actual, substantive communication between counsel and/or *pro se* (self-represented) litigant(s), either telephonically or in writing (not to be copied to the Court), regarding the claimed failure to engage in discovery, on the one hand, and the claimed compliance or reason for noncompliance, on the other. The Court is NOT to be copied on the correspondence between counsel and/or *pro se* (self-represented) litigant(s) unless requested by the Court. Similarly, any scheduling issues for depositions, IME's, appraisals, etc. must be addressed by counsel and/or *pro se* (self-represented) litigant(s) and must not wait until the Compliance Conference.

The parties are **NOT** to make any motion concerning discovery without having first attempted to resolve the issue. If counsel cannot resolve the discovery issue between themselves after a good faith effort, then the counsel who believes that discovery is not being conducted in accordance with the Court's Order is to contact the Court by letter (see Rule I[A], supra), to advise of the nature of the dispute and the efforts that have been made to attempt to resolve it. The Court will either resolve the issue by letter or by scheduling a conference. After the Court conferences the matter and if the Court grants leave of court to file a discovery motion, **any discovery motion must state that this procedure has been complied with. Failure to comply with this Part's rules as set forth above may result in denial of the motion.**

D. *Compliance Conferences.* The purpose of the Compliance Conference is for counsel and *pro se* (self-represented) litigant(s) to report to the Court that pre-trial discovery is progressing, or has been completed, so the Court can direct a date on which a Note of Issue shall be filed and can schedule a future Settlement Conference. At the Compliance Conference ADR/settlement discussions will/may also take place (See ADR Appendix). Counsel and *pro se*

(self-represented) litigant(s) are not permitted to file a Note of Issue in any action unless permission to do so is granted by the Court.

The parties must enter into a Stipulation not later than twenty (20) days after the filing of a Note of Issue, setting forth: (1) agreed upon matters of fact, and (2) the admissibility of documents where the accuracy and reliability of these documents are not in dispute, such as bank statements, closing statements, credit card statements, tax returns, benefit plans and real estate documents, if applicable. Each party reserves all rights to raise issues and arguments, notwithstanding the admissibility of the document(s).

E. *Certification Conferences.* A certification conference will be held no later than 90 days prior to the deadline by which a Note of Issue must be filed.

Requests to change a discovery track fixed in the timetable will only be granted for compelling reasons and where counsel have endeavored to complete discovery in a timely fashion.

F. *Expert Disclosure.* Except as otherwise directed by the Court, a party who has the burden of proof on a claim, cause of action, damage or defense shall serve its response to an expert demand pursuant to CPLR Section 3101(d) on or before the filing of the Note of Issue, if not sooner filed. Any opposing party shall serve its answering response pursuant to CPLR Section 3101(d) after the filing of the Note of Issue. Any amended or supplemental expert disclosure shall be allowed only with the permission of the Court. Unless the Court directs otherwise, a party who fails to comply with this rule may be precluded from offering the testimony and opinions of the expert for whom a timely response has not been given.

The statutory stay for disclosure [CPLR Section 3214(b)] upon the service of a dispositive motion under CPLR Section 3211 shall not apply to the service of these expert responses, or other disclosure devices or deadlines.

The word “expert” shall include, but is not limited to; any physician, dentist, chiropractor, psychiatrist, psychologist, other health care provider of any specialty, economist, engineer, architect, lawyer, accountant, appraiser, rehabilitation counselor, or other person who will testify concerning his/her qualifications and give opinions concerning the issues in the case. However, “expert” shall not include a treating physician or other treating health care provider whose record(s) and report(s) have been timely provided and whose testimony is limited solely to the contents of the records or reports provided. If a treating physician or other treating health provider is intending to testify as to matters not within the contents of the records or reports provided, then disclosure as an “expert” is required.

Any motion by a party to preclude, or limit expert testimony under this rule, must be made as soon as practicable but no later than 30 (thirty) days after the party’s receipt of the expert disclosure or the motion will be waived.

G. *Settlement Conferences.* Counsel are advised that on the date of the first compliance conference, the Court will conduct a conference where, in addition to the status of discovery, the Court will also address Alternative Dispute Resolution (“ADR”) (See ADR Appendix). In addition, after the certification conference, BUT before the Note of Issue is due, the Court will conduct an ADR/Settlement Conference.

**PER DIEM COUNSEL ARE NOT PERMITTED
AT ADR/SETTLEMENT CONFERENCES.**

Counsel attending the ADR/Settlement Conference must be fully familiar with the action and be authorized to discuss all factual and legal issues presented by the litigation, settlement demands or offers, witness scheduling, and trial procedure (e.g., whether any party or witness will require a translator or trial accommodation).

Counsel also must be authorized to enter into binding settlements on terms agreeable to the parties and to the Court. The Court will explore limitation of issues for trial (e.g., in an appropriate case, whether liability may be conceded, or certain claims or defenses withdrawn).

On or before the date of any ADR/Settlement Conference (to be used only in furtherance of ADR/settlement), Plaintiff’s counsel, Defendant’s counsel (where applicable) (or *pro se* (self-represented) parties) must file via NYSCEF and provide the Court with a working copy of the following:

1. Marked pleadings in accordance with CPLR Section 4012, including copies of any exhibits incorporated by reference in the pleadings;
2. A copy of all Bills of Particulars, including Supplemental and/or Amended Bills of Particulars (if applicable);
3. A copy of all medical narrative reports exchanged by the parties (if applicable);
4. A copy of all expert disclosures served pursuant to CPLR Section 3101(d) (if applicable);
5. A list of probable trial witnesses;
6. A copy of all prior Decisions or Orders on motions issued in the case (if applicable); and
7. A Stipulation of agreed facts and admissible documents (if applicable).

H. *Pre-Trial Conference.* A Pre-Trial Conference with all counsel and *pro se* (self-represented) parties will be conducted at a date and time provided by the Court.

On or before the Pre-Trial Conference, Plaintiff's counsel, Defendant's counsel (where applicable)(or *pro se* (self-represented) parties) must file via NYSCEF and provide the Court with a working copy of the following, if not previously provided via NYSCEF and to the Court:

1. Marked pleadings in accordance with CPLR Section 4012, including copies of any exhibits incorporated by reference in the pleadings;
2. A copy of all medical narrative reports exchanged by the parties (if applicable);
3. A copy of all expert disclosures served pursuant to CPLR Section 3101(d) (if applicable);
4. A list of probable trial witnesses;
5. A copy of all prior Decisions or Orders on motions issued in the case (if applicable);
6. A Stipulation of agreed facts and admissible documents (if applicable);
7. Memoranda of Law concerning any procedural, evidentiary, or other legal issue which the parties anticipate the Court will need to determine;
8. Requests to Charge (if applicable); and
9. Proposed Verdict Sheet (if applicable).

I. *Requests to Charge.* A complete list of requested jury charges, drawn from the Pattern Jury Instructions (PJI) of the then-current year. Requests to charge must be submitted by email in Microsoft Word format to the Court's Principal Law Clerk at the Court's remote email (JudgeDalySapraiconeRemote@nycourts.gov), as directed by the Court and not later than the Pre-Trial Conference. Where the requested charge comes directly from the PJI, only the PJI title, section number and page number need to be provided. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted, together with any supporting legal authority.

J. *Proposed Verdict Sheet.* A Proposed Verdict Sheet, jointly prepared by all counsel/*pro se* (self-represented) litigant(s), typewritten and in final form for presentation to the jury, shall be submitted via email as directed above. If counsel/*pro se* (self-represented) litigant(s) cannot agree to the questions to be posed to the jury prior to the Pre-Trial Conference, each side will present a Proposed Verdict Sheet. Proposed Verdict Sheets must be submitted by email in Microsoft Word format to the Court's Principal Law Clerk at the Court's remote email (JudgeDalySapraiconeRemote@nycourts.gov), as directed by the Court.

K. *Motions in limine.* Motions in limine must be made returnable not more than 30 (thirty) days after the ADR/Settlement conference. Such motions must be made on no less than seven (7) days' notice to opposing counsel and/or *pro se* (self-represented) litigant(s). To the extent possible, the Court will decide such motions prior to commencement of jury selection and/or the commencement of a bench trial, as applicable.

L. *Adjournment of Conferences.* A request to adjourn a conference must be made in writing, by email to JudgeDalySapraiconeRemote@nycourts.gov at least twenty-four (24) hours in advance of the scheduled conference. All applications for adjournments must set forth: (1) the reason why an adjournment is necessary; (2) whether the opposing party(ies) consent(s) or object(s) to the application; and (3) the length of the adjournment sought or, if on consent, a date all parties are available. All such communications must be copied to all counsel and *pro se* (self-represented) litigants. The Court will advise counsel/*pro se* (self-represented) litigant(s) via email if the requested adjournment has been granted.

Where the adjournment sought is on consent, the Court will advise the parties if the requested adjournment has been granted. The parties should not assume that any stipulated request for adjournment has been granted unless specifically advised by the Court.

Where the adjournment sought is not on consent, the requesting party should email a brief (no more than 2 pages) letter request to the Court (with a copy to all interested parties as required by Rule I[A], *supra*), setting forth why the adjournment is necessary and the length of the adjournment sought. Opposing counsel or *pro se* (self-represented) litigant(s) may succinctly (no more than 2 pages) provide their reasons for objecting to the requested adjournment in a reply email to the Court's remote email address (JudgeDalySapraiconeRemote@nycourts.gov). No further communication concerning the request for adjournment will be permitted. The letter request and the response, if any, are NOT to be used to advocate a position on the substantive dispute and shall address only the reason that consent for the requested adjournment is being declined. The Court will advise the parties via email if the requested adjournment has been granted.

Adjournment requests left on Chamber's voicemail shall be disregarded.

Adjournments requested because of engagement of counsel must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Section 125.1.

IV. Motions/Orders to Show Cause/Temporary Restraining Orders

A. General Rules.

1. Parties may move by Notice of Motion after requesting and receiving leave of Court or by Order to Show Cause, depending on the exigency of the relief sought.

2. Absent express permission obtained in advance from the Court, no affidavit, affirmation, brief, or memorandum of law in chief shall exceed 7,000 words. Each affidavit, affirmation or memorandum of law more than 4,500 words shall include a bookmark providing a listing of the document contents. Reply papers may not exceed 4,200 words and shall not contain any arguments not raised in the memoranda in chief. The caption shall not count as part of the word count. Papers in excess of the above without express written permission from the Court will not be considered. **Sur-Reply papers are not permitted. ALL paperwork over 1/2-inch thick must be acco-fastened, not stapled.**

3. There will be no oral argument required on any motion or Order to Show Cause unless directed by the Court. Parties seeking oral argument of a motion or Order to Show Cause may request that oral argument be heard by stating "Oral Argument Requested" above the Index Number on the first page of the papers submitted. If the Court grants the request for oral argument, the Court staff will inform the requesting party's attorney of the date and time for argument. It is the responsibility of that person to inform all other attorneys of the date and time set, and failure to do so may result in sanctions. A request for oral argument should not be construed as an automatic grant of same.

4. Failure to appear at a motion conference may result in the denial of any motion made by the non-appearing party and/or the granting of any motion on default when the opposing party fails to appear.

5. All motion papers and Orders to Show Cause must be typewritten (minimum 12-point type), double-spaced, securely bound and entirely legible. **All exhibits must be legible and labeled with external tab markings.** Plaintiffs shall designate exhibits by number; Defendants shall designate exhibits by letter. Exhibit lettering or numbering should not begin anew for subsequent papers submitted by the same party. **Any submission over 1/2-inch thick must be acco-fastened, NOT stapled.**

6. Reference to exhibits longer than ten (10) pages shall indicate the page number on which the information cited is contained. Should the exhibit not contain page numbers, the exhibit shall be bates-stamped.

7. Citations to legal authority must be to the official citations.

8. Deposition/Examination Before Trial transcripts included as exhibits must be single, front-faced pages only. Parties shall not submit manuscripts.

9. Unless there are extremely unusual circumstances in which significant prejudice (set forth in detail in a supporting affidavit/affirmation) will result, opposing counsel are to be advised by telephone or email at least 24 hours in advance of the date and time that any Order to Show Cause which includes a request for a Temporary Restraining Order or other emergency relief is being presented to the Court. In a true emergency, the Court, in its discretion may dispense with the 24-hour notice requirement. If there has been no appearance by opposing counsel, the adverse party is to be provided with notice of the intention to submit an Order to Show Cause as provided by 22 NYCRR Section 202.7(f) and is to be advised that he/she has the right to be heard on the application. If the opposing party requests oral argument concerning the request for a Temporary Restraining Order or other emergency relief, said request shall be made immediately receipt of notice required by 22 NYCRR Section 202.7(f) via email to JudgeDalySapraiconeRemote@nycourts.gov on notice to all counsel/*pro se* (self-represented) litigant(s).

10. Counsel must advise the Court, in writing, and as soon as practicable, if any submitted or unsubmitted motion, or portion thereof, has been resolved, withdrawn, or rendered moot because the case is settled, or an issue is otherwise resolved.

B. *Summary Judgment Motions.* Summary Judgment motions must be made within ninety (90) days of the filing of the Note of Issue.

If a Summary Judgment motion is made prior to completion of discovery, the making of the motion is not to be deemed a stay of discovery. The parties shall continue to abide by any Order or Notice pertaining to discovery, unless otherwise directed by the Court.

C. *Motions for Default Judgment:* All motions for default judgment should be accompanied by this Part's checklist for default judgments (See Appendix) and a proposed order on the submission date. All checklists should be emailed to JudgeDalySapraiconeRemote@nycourts.gov on the date of submission with the proposed order in Word format.

D. *Motions to Confirm Arbitration:* All motions seeking to confirm an arbitration award should be accompanied by a proposed order in Word format and submitted to the Court by email to JudgeDalySapraiconeRemote@nycourts.gov.

E. *Adjournments of Motions.* A request to adjourn a motion must be made in writing and transmitted to Chambers by email to JudgeDalySapraiconeRemote@nycourts.gov (see Rule I[A], supra), prior to the return date of the motion, copied to all counsel and *pro se* (self-represented) litigant(s). Adjournment requests may only be granted by the Court, not by

stipulation of counsel. The parties should not assume that any adjournment has been granted unless specifically advised by the Court.

All applications for adjournments must set forth: (1) the current return date; (2) the reason why an adjournment is necessary; (3) whether the opposing party(ies) consent(s) or object(s) to the application; (4) the length of the adjournment sought; and (5) the number of prior requests for adjournment and the dates previously set. The letter request and the response, if any, are NOT to be used to advocate a position on the substantive dispute and shall address only the reason that consent for the requested adjournment is being declined. The Court will advise the parties whether the adjournment is granted, and if so, the new return date for the motion.

No more than three (3) adjournments of any motion or cross-motion will be permitted. The total period of time that a motion may be adjourned shall not exceed 60 (sixty) days.

F. *Submission of the Motion.* Counsel are not required to appear on the submission date unless directed by the Court. This part will be conducting Virtual Conferences via Microsoft Teams on Motions prior to marking them fully submitted. Once contacted by the Court with a Microsoft Teams invite, moving parties must notify all self-represented parties, with proof of the Microsoft Teams scheduled date and time, by printing and mailing the invitation to the self-represented parties, prior to the Microsoft Teams meeting. Motions are to be served and filed in conformity with CPLR Section 2214. In addition, the various branches of the motions as delineated in the Notice of Motion or Order to Show Cause are to be preceded by a number or letter which corresponds to a number or letter in the supporting affirmations and affidavits containing the numbered paragraphs dealing with the particular relief sought.

G. *Infant Compromises.*

Infant Compromise petitions must comply with CPLR 1207, 1208, and 22 NYCRR 202.67. Counsel shall be notified of any deficiencies in the papers, and when appropriate, be given an opportunity to cure the deficiency or submit supplemental papers.

1. All applications for Court approval of a proposed compromise of an infant's claim must be submitted through the Infant's Compromise Clerk ("ICC") at (516) 493-3049.

2. A proposed Infant's Compromise Order must include the full name of the infant-plaintiff and reference therein the following:

“Confidential personal information is included in this Order upon the Court’s finding that good cause exists pursuant to 22 NYCRR Section 202.5[e][2], in that the inclusion of the full name and date of birth of the minor, as well as related information, is material and necessary to effectuate the terms of this Order.”

3. The infant's compromise paperwork submitted to the ICC must include, *inter alia*, (i) a medical report/affidavit indicating whether the injured infant plaintiff has fully recovered, and if not, the nature and extent of the injuries and anticipated future treatment, if any, and related medical records where applicable; (ii) proof of settlement of the infant's claim from defense counsel, in writing; and (iii) defense counsel's waiver of appearance at the Infant's Compromise Hearing, in writing. Such paperwork must also otherwise comply with all applicable rules concerning the compromise of an infant's claim.

4. If the infant is fourteen years or older, an affidavit of consent from the infant must be included in the submitted papers.

V. Judgments, Decisions and Orders

Where the Court issues a Bench Decision and a party desires a written Decision or Order, the party may submit a proposed Order to the Court, together with the transcript of the proceedings at which the Bench Decision was rendered to be "So Ordered". Proposed Orders or Judgments are not to be submitted by fax. Proposed Orders or Judgments shall be submitted via email to JudgeDalySapraiconeRemote@nycourts.gov in Microsoft Word format and counsel must submit a courtesy copy to Chambers.

Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice will be returned unsigned unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with 22 NYCRR Section 202.48 has been included.

All papers which are submitted for signature by the Court shall be identified on the signature page so that the document being signed by the Court can be identified. Example: Jones v. Jones, Index #/year, Type of Document.

VI. Trials and Hearings

A. *Trial and Hearing dates.* Scheduled trial and hearing dates will be adhered to except for the most extraordinary good cause shown. Clients, fact witnesses, experts of all kinds (including physicians) are to be timely advised of the date set for trial by the Court within a reasonable period of time of the setting of such date, to avoid last minute claims of unavailability.

The Court will respect counsel's and parties' actual scheduled, or anticipated, vacation plans when setting a trial date. Neither counsel, nor a litigant, shall schedule a vacation which conflicts with a scheduled trial date after the Court has set that trial date.

B. *Subpoenas.* Counsel are referred to CPLR Sections 2306 and 2307 for guidance as to subpoenas directed to municipal entities such as libraries, municipal corporations and their departments and bureaus. The Court's issuance of a subpoena to such entities does not constitute

a ruling as to the admissibility of the subpoenaed records. Counsel are also reminded that they are designated agents for service of subpoenas on their clients under CPLR Section 2303-a.

All subpoenas seeking the production of medical (or other) records subject to the HIPAA Rules shall attach a duly executed authorization permitting the release of such records.

C. *Interpreters.* In the event a translator or interpreter is required for a proceeding, counsel shall notify the Part Clerk no later than the seven (7) days prior to the scheduled appearance so that timely and appropriate arrangements can be made.

D. *Personal Injury/Bifurcation.* Trials of personal injury actions, except those involving claims of wrongful death or medical/dental malpractice, will be bifurcated in accordance with 22 NYCRR Section 202.42.

E. *Jury Selection (If applicable).* Juries will be selected using “White’s Rules”. (See 22 NYCRR Section 202.33). Jurors will be designated; alternate jurors will be non-designated unless the parties otherwise agree on the record prior to commencement of jury selection that the alternates will also be designated.

F. *Jury Contact (If applicable).* Counsel or *pro se* (self-represented) litigant(s) are not to read from any pleading, part of a pleading, or other document during jury selection, nor may counsel refer to any specific amount of money being sought. Counsel or *pro se* (self-represented) litigant(s) are not to discuss any aspect of the law with the jury. Instruction on the law is for the Court alone.

In jury trials, the parties and their attorneys are to stand (if physically able) whenever the jury enters or leaves the courtroom. Non-party witnesses are not to be in the courtroom during the trial except when the non-party witness is testifying.

G. *Reading of Exhibits.* If counsel intends to use/read from any anticipated exhibit or item of demonstrative evidence during Opening Statements, counsel is to advise the Court of such intention prior to commencement of jury selection.

H. *Objections.* Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating “Objection” and no more than a one- or two-word statement as to the basis for the objection. Speaking Objections are prohibited. If the Court requires further explanation of the Objection, the Court will ask for further explanation or invite counsel to approach at side bar.

I. *Use of Videotapes.* If a party intends to use a videotape at trial, that party shall submit a copy of the videotape (or other video recording) and transcript of same, if applicable, to the Court at least two (2) weeks prior to the scheduled trial date in order to allow the Court to rule

on the admissibility of the videotape (or other video recording), and any Objections made during the video recording.

J. *Displays and Monitors.* The Court provides no electronic support. Specifically, counsel must bring all equipment it plans to utilize during trial (i.e., screens, monitors, etc.).

K. *Responsibility of Trial Counsel.* Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc., 30 (thirty) days after the end of trial, unless, in the case of non-jury trials the Court reserves its decisions. In all cases, exhibits, pleadings, transcripts, etc., not retrieved within 60 (sixty) days from the conclusion of the jury trial or within 60 (sixty) days after the Court renders a decision in a non-jury trial, shall be disposed of.

L. *Malpractice “Departures.”* In jury trials involving claims of professional negligence, no later than the next trial session after the party “rests,” or such other time as the Court may direct, each party-plaintiff shall furnish the Court and all counsel with a list of proposed departures from the standards of applicable care which that party asserts were testified to by its expert(s) or other witnesses. Where such testimony has been transcribed, page references are required.

VII. Notice of Change in Circumstances: Counsel’s Responsibility

1. Pursuant to 22 NYCRR Section 202.28(b), if an action is discontinued, or wholly or partially settled by stipulation pursuant to CPLR Section 2104, or a motion has become wholly or partially moot, or a party has died, become a debtor in bankruptcy or is in active military duty, counsel must notify the Court by email to JudgeDalySapraiconeRemote@nycourts.gov, as soon as possible. A copy of the signed Stipulation of Discontinuance, which has (or will be) been submitted to the County Clerk, shall be uploaded to NYSCEF.

2. It is the responsibility of counsel to apprise this Court by email to JudgeDalySapraiconeRemote@nycourts.gov as to an Appellate Division decision or a change in circumstances referenced in Rule VII[1] above that affects the status of any case assigned to this Part.

3. Any *pro se* (self-represented) litigant or attorney who, without good cause shown, fails to promptly notify the Court consistent with the above requirements may be subject to the imposition of sanctions.

VIII. Substitution/Discharge of Attorneys

Except in cases where an attorney is replaced by another attorney on consent, any change or withdrawal of counsel must be approved by the Court on a motion, brought by Order to Show Cause pursuant to CPLR Section 321.

The Court does not recognize the purported withdrawal by counsel where such withdrawal would result in a party becoming *pro se* (self-represented) (except where the party is an attorney) by the filing of a “Consent to Change Attorney” Form. The use of a “Consent to Change Attorney” Form to withdraw where a party becomes *pro se* (self-represented) is specifically prohibited. Any attempt to do so will not be recognized by the Court.

IX. Civility

This Court values civility and courteousness. Parties are encouraged to refrain from histrionics, showmanship, gamesmanship and discourteousness. The Court expects that the Judge, her staff, the Part Clerk, the Court Reporter, the Court Officers and all attorneys and parties will be treated respectfully. The Court will not tolerate discourteous behavior (i.e., constant interruptions, outbursts or ad hominem attacks).

All counsel are expected to treat each other and litigants in a civil and professional manner in accordance with 22 NYCRR Section 700.4, the Rules of Professional Conduct, and the NYS Standards of Civility.

It is incumbent upon all counsel and *pro se* (self-represented) litigant(s) appearing before this Court to ensure they have read this Court’s current Part Rules and are in compliance with same.

These rules are in addition to the New York State and Local Rules of Court. Failure to comply with any rules or orders of this Court may result in preclusion and/or sanctions without further notice. These Rules are subject to revision or modification by the Court.



NASSAU COUNTY SUPREME COURT

Alternative Dispute Resolution Coordinator (10N): Yvonne R. Marin, Esq.

100 Supreme Court Drive, Room 295, Mineola, New York 11501

516-493-3330; ymarin@nycourts.gov

Nassau ADR Website: <https://ww2.nycourts.gov/courts/10jd/nassau/ADR.shtml#district>

Civil Case ADR Program (CCADR)

- Available to all civil cases that are not already included in a separate ADR program within this District. Trial ready TORT cases (except med. mal.) are particularly suitable for CCADR Program. Case should be referred only after sufficient discovery has been completed.
- Cases are mediated by Part 146 trained mediator from the Program's Roster of Neutrals. Neutral will provide a free 90-minute initial session. Compensation shall not exceed \$450 per hour for mediation and preparation time beyond the initial session.
- Once an Order of Reference and Assignment Form is received, the ADR Coordinator will assign a neutral from the Program Roster. Parties may select and pay for their own neutral.

Commercial Division ADR Program

- Available to any commercial case regardless of amount in dispute. Cases shall be referred as early as is practicable by an Order of Reference to the Commercial Division ADR Program.
- Cases are mediated by a Part 146 trained mediator or neutral evaluator from the Program's Roster of Neutrals. Neutral will provide a free 4-hour initial session, 1-hour can be applied to preparation time. Compensation shall not exceed \$500 per hour for mediation and preparation time beyond the initial session. Mediator is generally selected by the parties. However, the Court will select the neutral if parties cannot agree and submit four names from the roster to the Court.
- Copy of the Order of Reference should be emailed to the ADR Coordinator and filed with NYSCEF.

In-House Mediation Program

- Preferred for complex disputes requiring Court oversight and/or multiple sessions. Recommended for Medical Malpractice, Real Property, CVA and disputes involving related parties. No cost for mediation and multiple sessions may be held in-person or virtually.
- Referring Judge should exercise discretion in making referrals to ensure that the case is ready and appropriate for mediation at the time of referral.
- Cases are mediated by select Judges, volunteer JHOs or a Court Attorney. Court will assign the mediator on rotating basis based upon availability.
- Part must email referral order and counsel contact information to ADR Coordinator and Chief Clerk's Office.

Voluntary Private Mediation

- Parties may stipulate to use a private ADR provider to facilitate resolution of their case at any time. The parties may negotiate a fee with their selected neutral. Private Mediators can be found through the Statewide Mediator Directory online at ww2.nycourts.gov/ip/adr/MedDirectory.shtml
- Some local private ADR providers who may facilitate dispute resolution include: JAMS; The Jansen Group; The Nassau County Bar Association ADR Panels; NAM (National Arbitration and Mediation); Resolute Systems, LLC; and SSAM (Settlement Systems Arbitration & Mediation). Providers may offer an initial session at a reduced rate for court ordered ADR. This list is for convenience only. The Court does not favor these providers over any other private ADR Neutral or Provider and litigants are free to choose any private ADR entity.

Checklist for Default Judgments

Please complete for submission with a proposed order

Name of the Case: _____

Index Number: _____

Requirements:

1. Is it over \$15,000? _____
2. Proof of service, summons and complaint OR CPLR 305(b) summons with notice
3. Proof of claim – i.e., copy of the agreement
4. Proof of default – i.e., Affidavit of Service, Military Affidavit

Date of Submission of motion: _____

Date Summons and Complaint filed (attached to motion): _____

Date Proof of Service filed: _____

Military Affidavit necessary **Y/N**

Attorney's Fees: \$ _____

- Affidavit attached: **Y/N**
- Amount requested: \$ _____
- Amount billed: \$ _____

Type of Defendant: Natural Person
 Domestic Corporation
(circle one) Foreign Corporation (Authorized/Unauthorized)
 Domestic LLC
 Foreign LLC
 Other: _____

Affidavit of Service attached (circle one): Y or N

Service pursuant to: (check one that applies)

- _____ 308(1) – in person, description, sex, hair color, age, weight
- _____ 308(2) – suitable age and discretion (description, as above) and mail
 within 20 days (discussions with recipient)
- _____ 308(4) – nail (at least 3 attempts, varying times) and mail (within 20
 days)(discussions with neighbors?)
- _____ 311(a)(1) – Domestic of Foreign Corp (officer, director, managing or
 general agent, cashier, assistant cashier or other agent
 authorized by appointment/law to receive service of process

(discussions with recipient establishing title or authority)

- _____ 311-a – Domestic or Foreign LLC
- _____ BCL 306 – (Sec of State) Domestic or Authorized Foreign Corp
- _____ BCL 307 – (Sec of State) Unauthorized Foreign Corp
- _____ Has proof of service been filed with the Clerk’s office? (service within 20 days). If not, service not completed, then Deny.

CPLR 3215 Additional Notice required if Defendant is:

- _____ Natural Person in action based on nonpayment of contractual obligation (3215(g)(3))(copy of summons by mail - *see details*)
- _____ Domestic or Auth. Foreign Corp served by BCL 306 (3215 (g)(4))(copy of summons AND a notice of service per BCL 306 – *see details*)

Is the Default Judgment brought within one year of when the answer is due? **Y/N**

Affidavit of service: _____

Affidavit of merit by claimant attached: _____

Affidavit by lawyers of default: _____

Affidavit of additional 3215(g) notice: _____

Affidavit of Defendant not in military: _____

Consumer Credit Transactions require additional proof: _____

For Court use:

Default Judgment Granted: _____

Default Judgment Denied: _____

Inquest Required: _____