

**SUPREME COURT
NASSAU COUNTY – IAS/TRIAL PART 35**

HON. STEVEN M. JAEGER, A.J.S.C.

PART RULES & PROCEDURES (as of January 2, 2019)

Law Secretary: Keisha N. Marshall, Esq.
Secretary: Alicia Terry
Courtroom Clerk: Patricia Schreiber

Chambers: 516-493- 3227 (Third Floor)
Fax: 516-493- 3278 (not for filing of papers)
Courtroom: 516-493- 3230 (First Floor)

Unless otherwise ordered, matters before the Court shall be conducted in accordance with the following rules, as well as the Uniform Civil Rules for the New York State Trial Courts and the Local Rules of Court. Failure to comply with any rules or orders of the Court may result in preclusion and/or sanctions without further notice.

COURT PERSONNEL

The Court functions with the aid and support of the courtroom and chambers personnel. The Court and the personnel assigned to the Court will treat counsel, litigants and other persons present with dignity and courtesy which is indispensable to the proper administration of justice. The Court expects the Court personnel to be treated in like manner.

COMMUNICATIONS WITH CHAMBERS

- A. No *ex parte* communications with the Court shall be permitted and will be disregarded.
- B. Communications with chambers shall be by letter only, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.
- C. Telephone calls, except as set forth below, are permitted only in emergency situations requiring immediate attention.
- D. Faxes to chambers are not permitted without prior authorization or as specifically set forth below.

CONFERENCES

PRELIMINARY CONFERENCES (PC)

- A. Prior to the PC, **all counsel and Self-Represented litigants** must obtain and review these Rules and comply with same throughout the proceedings.
- B. Requests to adjourn the PC shall be directed to the DCM Clerk and **not** to chambers.
- C. All Discovery, Certification, and Note of Issue deadlines shall be set forth in the PC Order and will be strictly enforced. Adjournments of dates or deadlines in the PC Order may **only** be made with consent of the Court.

ALL OTHER CONFERENCES

- A. All conferences shall be held on Mondays, Tuesdays, and Wednesdays at 9:30 am, unless otherwise ordered by the Court.
- B. **All counsel and Self-Represented Litigants** shall appear for all conferences unless otherwise directed by the Court.
- C. Attorneys and Self-Represented litigants shall notify the Part Clerk when they arrive in the courtroom. All conferences will be held in the order in which all attorneys and Self-Represented litigants have checked in and are present in the courtroom, except as directed by the Court, as in the case of an emergency application.
- D. All counsel and Self-Represented litigants shall be knowledgeable of the facts and have authority to enter into stipulations and/or dispositions which bind their respective clients or have telephone access to their respective clients and be prepared to enter into good faith settlement discussions with the Court. The failure to comply with this rule or the failure to appear in timely fashion may subject counsel to sanctions as authorized by 22 NYCRR §202.27 and or 22 NYCRR Part 130.
- E. Attorneys shall comport themselves in accordance with the rules established in 22 NYCRR §700.4, the Rules of Professional Conduct, and

the NYS Standards of Civility. While Self-Represented litigants are subject to the same rules of practice as attorneys appearing in the Part, reasonable accommodations may be made to ensure all litigants the opportunity to have their matters fairly heard.

- F. If there are any newly submitted or pending motion(s) at the time of the conference, the Law Secretary and/or Judge must be so informed.
- G. Conferences may be conducted by telephone or Skype **only** if a written request is **made and granted** by the Court at least two (2) business days prior to the appearance.

MOTIONS

A. Pre-Motion Rules:

- 1. Except in an emergency situation or where an affirmation is presented demonstrating significant prejudice to the moving party by giving prior notice, **prior to the making or filing of any discovery or non-dispositive motion, counsel for the prospective moving party must arrange for a conference call to be held with opposing counsel and the Court to discuss the issue(s) involved and possible resolution.** All counsel on the conference call must be fully familiar with the matter and with authority to bind their client.
- 2. This Rule does not apply to motions to be relieved or for summary judgment.

A. Submission of Motions:

- 1. **All motions related to discovery** shall be returnable only on Wednesdays at 9:30 am, unless otherwise ordered by the Court. **All counsel or Self-Represented litigants on such motions must appear for conference and/or oral argument.**
- 2. All other motions shall be returnable on any day except Friday at 9:30 am and shall be on submission only. Any party may request oral argument no later than the submission date. If the Court deems oral

argument necessary, the Court will notify counsel of the date for oral argument.

3. E-filed motions: Courtesy copies of all motion papers submitted by e-file, including affidavits of service, shall be provided to the Court.
4. **Except for good cause/exigent circumstances shown, motions shall not be adjourned more than three (3) times** without express consent of the Court. See, Requests for Adjournments, below.
5. **All exhibits must be clearly tabbed.**
6. Except for good cause shown, no affidavit or affirmation shall exceed twenty (20) pages (double spaced) in length. Papers in excess of this limit may be rejected and returned to counsel.
7. No sur-reply papers or letters will be accepted or considered without prior leave of the Court.
8. Motions brought pursuant to CPLR 3211, 3212, and 3213 **shall not stay disclosure** unless the Court expressly stays disclosure.
9. Submission of Orders and Judgments: Such documents are to be submitted to the Clerk's Office and not to chambers.
10. Every party in a special proceeding or a motion requesting dispositive relief is required to submit a separate memorandum of law in support of its respective position.

A. Application for a Stay or Temporary Restraining Order:

1. An Order to Show Cause seeking any injunctive relief, including a stay or TRO, must be made in accordance with 22 NYCRR §202.7(f).
2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made at a conference with all counsel or parties present, unless the Order to Show Cause provides otherwise.
3. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and an affirmation explaining in detail the nature of the emergency. In addition, the movant shall be prepared

to appear in Court as soon as practicable to make a record, if the Court requires same.

A. Interim Partial or Full Settlement of Motions

If all or part of a submitted motion is settled, a proposed stipulation or order with notice of settlement (on ten [10] days' notice) or a signed waiver of settlement shall be submitted with a copy to be conformed and a self-addressed, stamped envelope. Counsel may also submit a letter, on notice to all other parties, certifying that such stipulation or settlement has been executed. If the motion is resolved, in whole or part, on the record, counsel shall obtain such transcript so that same can be "so ordered", unless the Court otherwise directs.

REQUESTS FOR ADJOURNMENTS

- A. Motions and conferences cannot be adjourned without the consent of all parties and upon the express approval of the Court.
- B. **Compliance and Certification Conferences** are to be held only on Mondays, Tuesdays, or Thursdays, unless the Court orders otherwise.
- C. **All motions related to discovery** shall be returnable only on Wednesdays, unless otherwise ordered by the Court. **All other motions** shall be returnable on any day except Friday.
- D. Applications on consent shall be made only using the Court's Request for Adjournment Form, which must be filled out completely and faxed to chambers **no later than 3:00 pm** on the business day **before** the scheduled date. If the application is granted, a confirming letter must be immediately faxed to chambers with copies to all other counsel appearing in the action.
- E. If all parties do not consent to an adjournment, application may be made by the requesting party by scheduling a conference call with the Court, with **all** counsel participating, **no later than 3:00 pm** on the business day before the scheduled date **or** the application must be made in person on

the appearance date. If the application is granted by conference call, a confirming letter must be immediately faxed to chambers with copies to all other counsel appearing in the action.

- F. Absent extraordinary circumstances, adjournment requests left on chambers' voicemail will be disregarded.
- G. Adjournments requested due to actual engagement of counsel shall be accompanied by an Affirmation of Actual Engagement.

TRIALS AND HEARINGS

- A. Trials and hearings shall be conducted on a day to day basis until conclusion, unless the Court orders otherwise for good cause shown.
- B. All counsel and litigants shall be ready to proceed at 9:30 a.m.
- C. Objections should be made by simply stating the ground upon which the objection is based, without further argument unless the Court seeks clarification.
- D. All motions *in limine* and pre-trial memoranda, including any supporting statutory or case law, shall be in writing and shall be made immediately upon assignment of the trial to the Court. All motions *in limine* addressing the preclusion of evidence, testimony or other trial related matters must be brought to the attention of the court immediately upon counsel becoming aware of such matter to avoid applications on the eve of or during trial, absent extraordinary circumstances.
- E. Trial counsel are responsible for any redactions of evidence.
- F. Counsel shall have copies of all exhibits which are expected to be introduced into evidence for opposing counsel.
- G. Complete copies of all deposition transcripts to be utilized at trial are to be made available to the Court and the witness.
- H. Jury Trials. A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. At the trial conference, counsel shall supply the Court with marked pleadings, amendments thereto, all bills of particulars, and any relevant orders or stipulations.

Each counsel shall further provide the Court with a list of proposed jury charges, the contentions/departures of each party, and proposed jury verdict sheets; a list of pre-marked exhibits; and identification of those on which counsel could not agree as to their introduction at trial. Counsel shall further provide the Court with a list of witnesses to be called, and if any be experts, shall further provide the information required by CPLR 3101 (d)(1)(l). A formal charge conference will be held before summations.

- I. **Malpractice Departures.** At the first appearance in the Part in all cases involving claims of professional negligence, Plaintiff shall furnish the Court and counsel for all parties a written list of the departures from the standards of good and accepted practice which the party asserts will be testified to by its expert witness(es).
- J. **Non-jury trials.** Non-jury trials are subject to scheduling upon forty-eight hours' notice. A conference with the Court shall proceed the commencement of all non-jury trials at which counsel shall provide the following: 1) A copy of marked pleadings, amendment thereto, bills of particulars, and any relevant orders or stipulations; 2) A list of pre-marked exhibits; and identification of those on which counsel could not agree as to their introduction at trial; 3) A list of witnesses and if any be experts, the information required by CPLR 3101(d)(1)(l); and 4) pre-trial memoranda of law and motions *in limine*. The parties are encouraged to provide the Court with the transcript of a non-jury trial, but the Court reserves the right to advise counsel it requires a transcript before the start of trial.
- K. If a post-trial memorandum is required, said memorandum shall be submitted simultaneously by both sides, said submission date to be determined by the Court after consultation with all counsel. The right to submit a post-trial memorandum shall be deemed waived if not timely submitted. Responses to the post-trial memorandums are prohibited without the express approval of the Court.

- L. At the first appearance in the Part, counsel shall advise the Court 1) if any party or witness will require the aid of an interpreter; 2) if any party requests the Court to supply any electronic equipment or technological assistance; and 3) if any party has issued a subpoena to secure the testimony of a police officer.
- M. Trial Notebooks are not required, unless the Court expressly notifies counsel to provide same prior to the commencement of a non-jury trial.

MISCELLANEOUS RULES

- A. An attorney of record must continue to appear for a client until the Court has relieved counsel of that obligation or a stipulation substituting counsel has been filed with the Clerk of the Court. See, CPLR §321.
- B. If an action is settled or discontinued or the parties otherwise stipulate to the resolution of an issue in dispute, counsel shall advise the Court forthwith by sending the Court a copy of the stipulation. The original of any stipulation of settlement or discontinuance must be filed with the Clerk of the Court.
- C. Hearings/Inquests: All hearings and/or inquests emanating from cases in the inventory of this IAS Part shall be scheduled by the Court or by the Justice presiding in CCP. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest, unless otherwise ordered by the Court.
- D. Sanctions. The Court will not consider an application for sanctions unless the moving party first seeks withdrawal or discontinuance of the offending act or action or demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.