

HON. DAVID J. GUGERTY
SUPREME COURT - NASSAU COUNTY
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MINEOLA, NY 11501
judgegugertyremote@nycourts.gov

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IAS PART 24 - RULES & PROCEDURES

I. Communication with Chambers

All correspondence and emails sent to chambers must reflect the name of the action and, the index number. Copies are to be sent to all adversaries. Unless otherwise directed, emails shall be sent to judgegugertyremote@nycourts.gov. Correspondence between attorneys and/or parties shall not be copied to the Court unless directed to by chambers.

There shall be no ex parte telephone communication regarding substantive issues.

II. Electronic Filing (NYSCEF) and “So Ordered” Stipulations

All actions subject to e-filing are to be filed through the NYSCEF system. However, any request to have a stipulation “so ordered” by the court shall be sent by email to judgegugertyremote@nycourts.gov. So-ordered stipulations will be uploaded to NYSCEF by the Court. Copies of orders are posted on NYSCEF and will not be sent to attorneys unless there is an urgent need for it to be provided.

III. Conferences

Until further notice, Microsoft Teams links will be sent by the court to the participating attorneys or pro se litigants. Unless otherwise requested, links will be sent to the email address listed under the Case Detail tab in NYSCEF. All parties are expected to appear promptly at the time of conference.

Pursuant to 22 NYCRR §202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party in appearing at a scheduled call of the calendar or at any scheduled conference, the Court may grant judgment by default against the non-appearing party.

IV. Motions

Generally, appearances on motions are not required unless directed by the Court. However, an appearance is required on the initial return date of an order to show cause. There will be no oral argument on motions unless the Court grants a request for same.

Any papers relating to motions required to be submitted shall be e-filed on NYSCEF.

Motions brought pursuant to CPLR §§ 3211, 3212 OR 3213 shall not automatically stay disclosure.

Counsel must request a conference with the Court prior to submitting motions to compel discovery, preclusion of evidence at trial, or dismissal of the action based upon failure to comply with discovery demands.

Temporary Restraining Orders. Any party submitting an order to show cause requesting a temporary restraining order must notify the Court to schedule a date and time for submission and oral argument. Notice to an opposing party must be given in writing at least 24 hours prior to the scheduled date and time.

V. Adjournments

All adjournments shall be requested no later than 2:00 p.m. the day preceding the conference via email to the judgegugertyremote@nycourts.gov mailbox with a copy to all adversaries. Adjournments shall be on consent of all parties. If consent to the adjournment cannot be obtained, then the request shall be made at the time of the scheduled conference or motion.

VI. Settlements

If a pending action has been settled, plaintiff's counsel shall notify chambers as soon as practicable by email to the judgegugertyremote@nycourts.gov. In order to remove the action from the Court's calendar and mark it disposed, plaintiff's counsel shall submit a fully executed stipulation of settlement or a fully executed stipulation of discontinuance to NYSCEF.

VII. Submission of Motions, Orders and Judgments

Counsel shall not send motions, orders or judgments directly to chambers unless directed to do so by the Court. These papers are to be filed with the Clerk's Office through NYSCEF.

VIII. Guardianship Cases

Guardianship matters are generally heard on Tuesday afternoons and Thursdays. All guardianship motions, except for annual and final accounts, shall be filed via order to show cause. Appearances are required from petitioner and all opposing parties on the return date of the order to show cause. Teams links may be forwarded to all interested parties/witnesses necessary to the hearing.

For all initial hearings, the Court Evaluator shall submit a copy of the report to chambers no later than 48 hours before the hearing by emailing same to judgegugertyremote@nycourts.gov. The Court Evaluator's report may not be shared with the interested parties or petitioner prior to submitting same to chambers. Only after submitting a copy to chambers may the Court Evaluator provide counsel for petitioner and/or represented interested parties a copy of the report upon request.

IX. Trial Rules

A. A note of issue is to be filed within 90 days after certification, unless otherwise specified in the certification order. Counsel for plaintiff shall pay the requisite fee with the County Clerk and ensure that the note of issue is submitted to the clerk who will then assign a calendar number.

B. At the first appearance of all cases assigned to this part for trial, a pre-trial conference will be held. At the conference, the Court shall provide for the submission or scheduling of the following:

1. *In Limine* applications: Any party intending to make a motion *in limine* shall submit a brief written affirmation setting forth the nature of the application and any supporting statutory or case law. The party shall furnish the Court with an original and two copies and provide counsel for all parties with a copy. There shall be a separate affirmation for each motion *in limine*.
2. Pre-trial memoranda providing the Court with cited case law to be considered by the Court.
3. A courtesy copy of each exhibit intended to be introduced into evidence at trial for the Court and each counsel. All exhibits shall be tabbed or included in a binder for easy reference.
4. All trial exhibits, whether the parties stipulate to admit them into evidence to the Court or not, shall be pre-marked by the court reporter.
5. A list of proposed witnesses for the Court's information.

6. A list of expert witnesses with copies of their reports.
7. Marked pleadings to be submitted before opening statements.
8. A statement of stipulated facts. Parties are encourage to stipulate to facts and/or exhibits.
9. Any written requests for jury instructions. Charges from the Pattern Jury Instructions may be identified by number without necessity of reproduction, unless a modification of the standard charge is required, in which case the modification is to be highlighted.
10. Any proposed verdict sheet.
11. If deposition transcripts are to be utilized, a copy of the witness' deposition transcript should be available to the Court. No mini-scripts are accepted.
12. Objections should be stated without argument except to state the grounds therefor, e.g., hearsay, relevance, etc. If further argument is appropriate, it will be invited by the Court.
13. Trial counsel are responsible for redactions of all evidence.
14. Trials will be conducted on a continual daily basis until conclusion. As such, no adjournments or delays during trial will be accepted unless exigent circumstances exist.
15. Counsel are required to have all proof in admissible form for inquests.
16. Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc., 30 days after the end of a trial, unless, in the case of non-jury trials, the Court reserves its decision. In all cases, exhibits, pleadings, transcripts, etc. not retrieved within 60 days from the conclusion of a jury trial or within 60 days after the Court renders a decision in a non-jury trial, shall be disposed of.
17. Malpractice Departures In jury trials involving claims of professional negligence, no later than the next trial session after a 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 or other witnesses. Where such testimony has been transcribed, page references are required.