

**Hon. Catherine Rizzo, A.J.S.C.**

Supreme Court, Nassau County  
3<sup>rd</sup> Floor West, Courtroom No. 313  
100 Supreme Court Drive  
Mineola, New York 11501  
IAS Part 44

[JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov)

Chambers Phone (516) 493-3211(Emergencies only)

Principal Law Clerk: Lauren Reber, Esq.

Secretary: Beatriz Fuschetto

Part Clerk: Dianne Toscano

Effective as of April 8, 2024

The Part rules set forth herein are in accordance with Administrative Order AO/270/2020, dated December 29, 2020 effective as of February 1, 2021. Certain portions thereto are delineated herein (\*). Counsel and self-represented parties shall become familiar with all such rules. Click on the link for the full Administrative Order [[AO/270/2020](#)].

The Part rules are in addition to the Uniform Rules for the New York State Trial Courts and New York State Civil Practice Law and Rules (CPLR).

## 1. COMMUNICATIONS

### COMMUNICATION WITH THE COURT

The Court will never accept any *ex parte* communication by way of email, telephone, letter, or otherwise made.

All communications and correspondence to this Court **shall be by email first**, by way of letter, limited to three pages, uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties, and shall be emailed **no later than 3:00 PM the day preceding the scheduled motion, conference, deposition or hearing, if applicable**.

Counsel and/or self-represented parties **shall not** call this Court or the Part Clerk to confirm a court appearance or conference. The parties shall first refer to e-courts. Should reference to e-courts not confirm an appearance, a letter requesting confirmation of a court appearance or conference shall be uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Copies of correspondence between counsel and/or self-represented parties shall **not** be corresponded to the Court.

Do not email Justice Rizzo directly. All emails shall be addressed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov).

Any unauthorized communication shall be disregarded.

Any communication on substantive issues will be disregarded.

## **COMMUNICATION BETWEEN COUNSEL AND SELF-REPRESENTED PARTIES**

Counsel and/or self-represented parties are expected to be courteous, civil and respectful with each other and the Court, and are expected to consult each other in good faith prior to any application or court appearance. In doing so, counsel and/or self-represented parties are expected to identify what, if any outstanding discovery items are outstanding, with particularity, and what, if any relief each part is seeking with an attempt to resolve the issue prior to seeking permission for such relief from the Court.

Counsel and/or self-represented parties shall promptly exchange email addresses and phone numbers with direct extensions if applicable, (not a general information number), and are expected to confirm all scheduled court appearances with each other prior to the court appearance.

Self-represented parties may seek assistance from the Court Information Center at (516) 493-3200.

## **2. ADJOURNMENTS**

Any request to adjourn a **motion, conference, deposition or hearing** must be made by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties. All letters requesting an adjournment must have the title of the action and Index number; state the current date of the motion/conference/deposition/hearing; the reason for the adjournment; whether the request is made with the consent of the opposing counsel/self-represented parties, or over such objection, and the proposed new date.

All requests for adjournments must be made **no later than 3:00 pm the day preceding the scheduled motion, conference, deposition, or hearing.**

Adjournment requests may only be granted by the Court, and not by stipulation.

**Preliminary Conferences** will be held in the Preliminary Conference (PC) Part ONLY . Counsel and/or self-represented parties shall consult the PC part for adjournments and all inquiries at (516) 493-3120 and [pcconf@nycourts.gov](mailto:pcconf@nycourts.gov).

Adjournments of conferences will be granted upon a showing of good cause. An adjournment of a conference will not change any date in any court order, including but not limited to the preliminary conference order unless otherwise directed by the Court. (\*Rule 15:Section 202.10: Ex P).

The Court, in turn, will advise counsel if the adjournment may be made, and if the proposed adjourned date corresponds with the Court's calendar.

## **3. APPEARANCES BEFORE THE COURT**

**All conferences before this Part will be held in person.** Requests for Virtual Conferences will be considered by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Counsel who appear before the Court must be familiar with the case with regard to which they appear and be fully prepared and authorized to discuss and resolve the issues which are scheduled to be the subject of

the appearance. Failure to comply with this rule may be treated as a default for the purposes of Rule 202.27 and or may be treated as failure to appear for purposes of Rule 130.2.1. (\*Rule 1: Section 202.1: Ex A).

#### **4. MOTIONS, CROSS-MOTIONS, PETITIONS AND ORDERS TO SHOW CAUSE**

**All motions, cross-motions, petitions, or orders to show cause are on submission only, no appearance is necessary, unless otherwise directed.**

Motions, cross-motions, petitions or orders to show cause may be made returnable at 9:30 AM on any day of the week.

#### **ORAL ARGUMENT**

Any party may request oral argument of a motion by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties. Either upon receipt of a letter requesting oral argument of a motion, or after a review of the submitted motion, this Court will determine, on a case-by-case basis, whether oral argument will be heard and will advise counsel when they shall appear. Should this Court schedule oral argument, counsel shall be prepared to argue the motion, discuss resolution of the issue presented and have settlement authority.

#### **FILING OF MOTIONS**

All motions, cross-motions, petitions or orders to show cause must be E-Filed in accordance with the current Administrative Orders and **must be uploaded to NYSCEF**.

E-Filing is not mandatory for self-represented parties who may opt-out-of E-Filing and refer to <https://www.nycourts.gov/legacypdfs/courts/10jd/nassau/pdf/EFilingProtocol.pdf>. Counsel and self-represented parties, on matters where the opt-out-provision for E-filing applies, shall deliver a working [hard] copy of any motion, opposition or reply papers to the Part Clerk, Third Floor, Room 313. The initial motion must be delivered prior to the return date. All subsequent papers shall be delivered no later than the submission date. The working papers of the motion shall include all documents in support of the motion, including exhibits with external tabs.

**THE MOVING PARTY SHALL EMAIL ONLY the “NOTICE” pages of any filed motion, cross-motion, petition or order to show cause to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.** This Court does not require working copies.

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

#### **A. DISCOVERY MOTIONS**

**Counsel and/or self-represented parties shall NOT FILE OR SERVE ANY DISCOVERY MOTION without obtaining prior written permission from this Court.** Permission to make a discovery motion may be made by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties. The letter shall succinctly set forth the good faith efforts made to resolve the issue, identify the document(s) sought with particularity and specific identification, that a “Jackson Affidavit” was requested, and if applicable, not provided. The letter shall not exceed three pages. Permission to make a discovery motion may also be requested in person at a scheduled conference before the Court.

Any discovery motion made without prior permission from this Court shall not be considered.

**B. ORDERS TO SHOW CAUSE, APPLICATIONS FOR A STAY OR TEMPORARY RETRAINING ORDER, (TRO)**

Orders to Show Cause shall only be filed where there is a genuine urgency, a stay is required or a statute mandates so proceeding. Absent advance written permission by the court, reply papers shall not be submitted on orders to show cause. (\*Rule 19: Section 202.8-d: Ex T).

**NOTICE** for a stay or TRO must be given in compliance with 22 NYCRR 202.7(f) via letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties. The letter shall provide the good faith efforts made to notify the party against whom the stay or TRO is sought of the, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application. The adequacy of the notice can only be determined on a case-by-case basis, but every effort should be made to provide notice promptly and thoroughly. Thus, 24-hour prior notice (or more) by way of phone contact and e-mail where the subject of the email indicates clearly that an application for a stay or TRO will be made to the court, the date of the application, time, and Judge. The letter shall state the time and date the phone call and/or email was placed, and whether or not the call and/or email was responded to, and shall attach a copy of the email. If applicable, the letter shall notify the court if the application for the stay or TRO is on consent, providing the name of counsel or self-represented party.

Failure to comply with the above mandate will result in the striking of the proposed stay or TRO.

**C. SUBMISSIONS AND OTHER MATTERS**

**Proof of Service and Proposed Order.** All motions shall have the appropriate proof of service on all parties where required annexed to the motion as well as a proposed order with respect to the requested relief, except on dispositive motions which will not need a proposed order. (\*Rule 16: Section 202.8-a(b): Ex Q).

**Motion Papers.** Every paper, other than an exhibit or printed form, shall contain writing on one side only. All papers shall be double spaced in length with 12-point font and one-inch margins. Print for footnotes shall be no smaller than 10-point font. Counsel shall include a certification of the relevant word count with their submission. (\*Rule 6: Section 202.5: Ex E).

**Length of Papers.** Unless otherwise permitted by 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's 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. (\*Rule 17: Section 202.8-b: Ex R).

**Sur-Reply.** This Court does not allow the submission of a sur-reply. “[S]ur-Reply papers, including correspondence addressing the merits of a motion are not permitted, except counsel may inform the court by letter of the citation of any post-submission court decision that is relevant to the pending issues, but there shall be no additional argument. Materials submitted in violation hereof will not be read or considered. Opposing counsel who receives a copy of materials submitted in violation of this Rule shall not respond in kind.” (\*Rule 18: Section 202.8-c: Ex S).

**Settled Matters, Withdrawn Motions and notice of a deceased party or party filed a petition in bankruptcy.** The Court shall be advised IMMEDIATELY of any settlement, withdrawal of motion or any branch of such motion, notice of a deceased party or petition in bankruptcy by way of letter by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

**Discovery** “Parties shall strictly comply with the discovery obligations and deadlines set forth in all case scheduling orders. Applications for extension of a discovery deadline shall be made as soon as practicable and prior to the expiration of such deadline. Non-compliance with such an order may result in the imposition of an appropriate sanction against that party or for the relief requested pursuant to CPLR 3126.” (\*Rule 13: Section 202.20-e: Ex M).

**Infant Compromise Orders.** Applications for an Infant Compromise Order shall be submitted to the Infant’s Compromise Clerk (ICC). Counsel may e-file a redacted version of the proposed order on NYSCEF and email an unredacted version to [jlorenzo@nycourts.gov](mailto:jlorenzo@nycourts.gov). The ICC will review and forward the application to this Part. The ICC can provide a status as to its review and advise counsel if the ICC has sent it to this Part. The ICC can be contacted at (516) 493-3069. Upon receipt of the application from the ICC, and after this Part’s review, this Part will contact counsel and/or self-represented parties to schedule an Infant Compromise Hearing before this Court.

Infant Compromise Orders must comply with CPLR §§ 1207, 1208 and 22 NYCRR 202.67. A proposed Infant’s Compromise Order must include the full name of the infant-plaintiff and reference the following:

“Confidential personal information is included in this Order upon the Court’s finding that good cause exists pursuant to 22 NYCRR §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.”

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.

If the infant is fourteen years or older, an affidavit of consent from the infant must be included with the petition.

**Requests to “So-Order.”** Absent good cause, or applicable statute (for instance CPLR §2307 requiring subpoenas to a state agency or municipality be “so ordered”), stipulations executed by parties (other than stipulations entered into at the time of conference before the court), **will not be** “so ordered” by this Court. Should counsel or self-represented parties seek this court to “so order” a stipulation or subpoena, or other agreement, they shall request so by way of letter uploaded to NYSCEF and emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties. The letter shall provide the grounds upon which the party seeks to have the document “so-ordered.”

#### D. TRIAL PART RULES

**MOTIONS *IN LIMINE*.** On matters assigned to this Part after the Jury has been selected, on the first appearance in the Part for trial, 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. There shall be a separate affirmation for each motion *in limine*.

Trials assigned to this Part prior to the Jury being selected. This Court will provide counsel with a date in which to submit any written motions *in limine*. Opposing counsel will be given a later date in which to respond. This Court will provide a written decision prior to date counsel are assigned to select the jury. There shall be no further motions *in limine* beyond the assigned date.

**MARKED PLEADINGS.** Plaintiff's counsel shall provide a hard copy of the marked pleadings to the Part Clerk on the first appearance in the Part for trial.

**REQUESTS TO CHARGE.** On the first appearance in the Part for trial after the jury has been selected, a Proposed Requests to Charge prepared jointly, with headings requested "Jointly" or "On Consent" and which charges are only requested by "Plaintiff" or "Defendant." A reference ONLY to **the then current PJI number and title will suffice**. The list shall be emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Trials assigned to this part prior to a Jury being selected. This court will assign a date certain in which to submit the Requests to Charge.

The Proposed Requests to Charge shall consist of **proposed charges to the jury after the defendant rests** and will be subject to modification on the record after a formal charging conference is held, prior to summations.

This Court does not charge PJI §§ 1:13C or 1:13D. Jurors are not permitted to take notes.

**VERDICT SHEET.** On the first appearance in the Part for trial after a jury has been selected, a Proposed Verdict Sheet shall be prepared jointly. Should counsel be unable to submit a jointly prepared Proposed Verdict Sheet, each party shall submit one. The proposed Verdict Sheet shall be emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Trials assigned to this part prior to a Jury being selected. This court will assign a date certain in which to submit the Proposed Verdict Sheet.

The Proposed Verdict Sheet will be subject to modification on the record after a formal charging conference is held, prior to summations. This Court permits counsel to refer to the Verdict Sheet during summations.

**MEDICAL MALPRACTICE AND PERSONAL INJURY DAMAGES TRIALS.** On the first appearance in the Part for trial after a jury has been selected, counsel shall provide, by way of letter, the plaintiff's date of birth and the full name and expertise of each expert witness. The letter shall be emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Trials assigned to this part prior to a Jury being selected. This court will assign a date certain in which to provide the plaintiff's date of birth and full name and expertise of each expert witness.

**Malpractice Departures.** In cases involving claims of professional negligence, on the next trial session after party rests, or such other time as the Court may direct, counsel for the party who has the burden of proof shall furnish the Court, and counsel for the opposing party, with a list of the departures from the standards of good and accepted practice which that counsel who has the burden asserts were testified to by its expert witness or witnesses. Where the testimony has been transcribed, page references will be required.

The list of departures shall be emailed to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), and copied to all counsel and/or self-represented parties no later than after counsel who has the burden of proof rests.

**OPENINGS.** Openings are limited to 30 minutes for each party. The Court will entertain an application to extend the time on a case-by-case basis.

**EXPERT WITNESSES.** On the first appearance in the Part for trial, counsel shall email their CPLR §3101(d) exchange [expert disclosure] to [JudgeRizzoRemote@nycourts.gov](mailto:JudgeRizzoRemote@nycourts.gov), copied to all counsel and/or self-represented parties.

Trials assigned to this part prior to a Jury being selected. This court will assign a date certain in which to submit the expert disclosure.

Counsel shall identify each expert witness, and the length of their expected testimony, including direct examination, cross-examination and redirect, if any. Counsel shall keep in mind that the Court is inclined to provide the same length of time for cross-examination as direct examination, on a case-by-case basis. This Court will first ascertain the scheduling of expert witnesses prior to scheduling the remaining witnesses, including party witnesses. The Court will entertain consented requests to take witnesses out of order. Once the expert witnesses have been identified, and their respective length of testimony, the court will schedule the remaining witnesses' testimony.

There is no longer a need for a party to ask this Court to declare a witness an "expert" in their field. Counsel are guided to lay a proper foundation for an expert to offer their opinion.

**WITNESSES.** After identifying what, if any, expert will be called to testify, each party shall identify the witness the party intends to call, the order in which they shall testify and the estimated length of their testimony. Other than parties, witnesses must remain outside the courtroom until they are called to testify.

**PRE-MARKING EXHIBITS.** Counsel shall pre-mark exhibits prior to openings with the court reporter. Counsel shall consult and in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. Exhibits agreed upon to be offered into evidence shall be marked as "in evidence. Exhibits which cannot be agreed upon to be offered into evidence shall be marked as "for identification." At trial, when referring to an exhibit, counsel shall advise the Court that the exhibit is either marked "in evidence" or "for identification."

All hospital records and other evidence over 20 pages shall be Bate Stamped.

"Absent good cause, a party may not use at trial or otherwise any document that was not produced in response to a request for such document or category of document, which request was not objected to or, if objected to, such objection was overruled by the court." (\*Rule 11-e: Section 202.20c(f): Ex K).

Trials assigned to this Part prior to a Jury being selected. This Court will assign a date certain in which counsel will pre-mark their exhibits.

**SUMMATIONS.** Summations are limited to 45 minutes for each party. The Court will entertain an application to extend the time on a case-by-case basis.

**OBJECTIONS.** There shall be no speaking objections, or colloquy, nor taking “exceptions.” Counsel are granted an automatic exception with respect to a ruling that is not in their favor.

Counsel shall **Stand Up (if physically able) and state only “Objection.”** Should this court need grounds, the Court will ask for grounds. Grounds are limited to a specific ground, such as “hearsay” or “leading.” Should there be an extended basis for the objection, counsel may approach the bench and ask to be heard outside the presence of the jury.

**SCHEDULE.** Each day on Trial begins at 9:30 AM until 12:30 PM. This Court will take a mid-morning ten-minute break. The trial will resume at 2:00 PM until 4:30 PM. The court will take a mid-afternoon ten-minute break.

This Court will allow the trial to continue to 1:00 PM or 4:45 PM to accommodate an expert only.

**Once the trial schedule has been made by this Court with counsel, counsel are expected to adhere to the trial schedule, absent exigent circumstances.** The Court will entertain requests to take witnesses out order, on consent of all parties, when it does not extend the trial. Any request to modify the trial schedule in any way whatsoever must be granted by the Court and not by stipulation.

When selecting the jury, counsel shall advise the jury that they are expected to arrive to court at 9:00 AM and be escorted to the courtroom by a court officer by 9:30 AM.

**INTERPRETER.** Counsel shall notify the Part Clerk as soon as possible as to whether an interpreter is needed.

#### **USE OF VIDEOTAPES, RECORDINGS, DISPLAYS AND MONITORS**

Counsel shall notify the Part Clerk as soon as practicable and no later than openings as to whether they will be using a videotape, recording, display or monitor.

**SUBPOENAED RECORDS FOR TRIAL.** Except otherwise permitted pursuant to CPLR, subpoenaed records for trial must be sent to the Subpoenaed Record Room. Trial authorizations should be filled out accordingly, counsel shall ensure that the subpoenaed records arrive at the courthouse prior to trial.

Counsel shall notify the Part Clerk as soon as practicable and prior to pre-marking exhibits of any subpoenaed records.