

HON. CONRAD D. SINGER
Justice of the Supreme Court
State of New York (Nassau County)
Part 23
100 Supreme Court Drive
Mineola, NY 11501

Courtroom Clerk: Michael J. Campisi
Law Secretary: Jennifer Ferraro, Esq.
Secretary: Lynell Giovannello
Chambers: 516-493-3231
Courtroom: 516-493-3234
Fax: 516-493-3414 (not for filing of papers)
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Courtroom: Located on the 4th Floor North
Part Rules and Procedures (effective October 20, 2022)

Welcome to Part 23

Unless otherwise ordered by the Justice in a specific case, matters before the Justice shall be conducted in accordance with the CPLR, the Uniform Civil Rules of the Supreme Court as amended by Administrative Order 270/2020, effective February 1, 2021, and the following:

Communication with Chambers:

Letters: Except as provided herein, letters to the Court that contain substantive issues regarding the case are not permitted absent prior approval from the Court. Letters sent without prior approval shall be disregarded. No correspondence shall be sent to the Court without copying opposing counsel/ pro-se parties with that correspondence.

Email: With the pre-approval of chambers, counsel/ pro-se parties may communicate by email with chambers. An attorney/ pro-se party emailing chambers must include all the other parties to the case on the email. Emails sent to the Court that contain substantive issues regarding the case are not permitted absent prior approval from chambers. **Email communication should only be to the email address listed above.**

Telephone Calls: Telephone calls to chambers are permitted only in emergency situations

requiring immediate attention. In such situations only, call chambers at the above listed number.

Appearances: Absent pre-approval by chambers, all appearances shall be **in person**. All appearances shall be made by attorneys with knowledge of the facts of the case and vested with authority to enter into stipulations and/or dispositions which bind their respective clients. (See 202.1(f) and (g) of the Uniform Civil Rules for the Supreme Court and County Court, eff. February 1, 2021). The failure to comply with this rule or the failure to appear in timely fashion may subject counsel to one or more of the sanctions authorized by 22 NYCRR §202.27 and or 22 NYCRR Part 130-2. 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. This Part expects and requires all counsel to treat one another, the other litigants and all court personnel with professionalism and respect. Lack of civility toward one another will not be tolerated.

Attorneys of record must continue to appear for their clients until such time as the court has relieved counsel of that obligation or until a stipulation substituting counsel has been filed with the clerk of the court. See, CPLR §321. Self-represented litigants shall be subject to the same rules of practice as attorneys appearing in the part.

Counsel, including self-represented litigants, shall also comply with Section 202.28(a) and (b) of the Uniform Rules for the Supreme Court and County Court, eff February 1, 2021 as follows: “If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the assigned judge or court part by submission of a copy of the stipulation or a letter directed to the clerk of the part along with notice to the chambers of the assigned judge via telephone, or email. This notification shall be made in addition to the filing of a stipulation with the county clerk.”

“Counsel, including self-represented litigants, are under a continuing obligation to notify the court as promptly as possible in the event that an action is settled, discontinued or otherwise disposed of or if a case or motion has become wholly or partially moot, or if a party has died or filed a petition in bankruptcy. Such notification shall be made to the assigned judge in writing.”

Preliminary Conferences: Preliminary conferences will be held according to the rules set forth in 22 NYCRR §202.19 and will be conducted in the Preliminary Conference Part. The conference will be scheduled by the clerk of that part. (telephone no. 516-493-3101). **The court expects parties to strictly adhere to the schedule contained within the preliminary conference order. That schedule cannot be changed without prior permission of the court. All Counsel shall be fully familiar with the preliminary conference order that is “so-ordered” by the Court.**

“Counsel for all parties shall consult prior to a preliminary or compliance conference about (i) resolution of the case, in whole or in part; (ii) discovery, including discovery of electronically stored information, and any other issues to be discussed at the conference, (iii) the use of alternate dispute resolution to resolve all or some issues in the litigation; and (iv) any voluntary and informal exchange of information that the parties agree would help aid early settlement of the case. Counsel shall make a good faith effort to reach agreement on these matters in advance of the conference.” (Section 202.23 of the Uniform Rules for the Supreme Court and County Court, eff February 1, 2021).

General Procedure for Court Appearances:

1. All **conferences are scheduled at 9:30 a.m.** unless the parties are specifically advised otherwise by the Court. Please be prompt. Defaults in appearance may be taken on the record at or after 10:30 a.m. After 10:30 a.m., compliance and status conferences may proceed with those in the Courtroom.
2. Attorneys and pro-se litigants must check in with the Court Officer or Part Clerk, if one is available. If the Courtroom is unavailable, counsel must call Chambers from the Fourth Floor Security Desk **only when all parties are present**. All parties must fully and legibly complete a sign-in sheet and note thereon whether counsel is in another Part and provide a cell phone number to be reached.
3. All conferences will be held in the order in which **all** attorneys and/or *pro-se* litigants have checked in with the Part Clerk and completed a sign-in sheet.
4. Counsel who appear in the Part must be fully familiar with the case and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients, including those appearing “of counsel” or “per diem”.
5. Failure to appear at the call of any calendar, or before 10:30 a.m., may result in an inquest or dismissal pursuant to 22 NYCRR § 202.27.

Compliance Conference: The Compliance Conference date will be set down in the Preliminary Conference Order and must be held no later than 60 days before the date scheduled for the completion of discovery (22 NYCRR §202.19[b][3]). The conference will be held in the courtroom. In no event shall the Compliance Conference be held later than the deadline set forth in the Standards & Goals timetable accompanying the PC Order (provided by DCM). Adjournments will only be granted for compelling reasons. No Compliance Conference may be adjourned without prior approval of the Court. See Adjournment Request procedure for adjournment requests.

Attorneys appearing at the Compliance Conference must have telephone access to their respective clients and shall be prepared to enter into good faith settlement discussions.

Certification Conference: Pursuant to the rules of the Administrative Judge, a Certification Conference will be held prior to the filing of a note of issue. The Certification Conference will be held no later than 90 days before the date fixed for the filing of the note of issue and in compliance with the standard and goals timetable accompanying the PC Order. The conference will be held in the courtroom. Attorneys appearing at the Certification Conference must have telephone access to their respective clients and shall be prepared to enter into good faith settlement discussions. There shall be no adjournments of Certification Conferences without the permission of the court.

MOTIONS:

A. Submission of Motions:

1. There are no appearances on motions filed in this Part, and motions will be decided on the papers, unless counsel and any *pro-se* litigants are specifically told otherwise by the Court.
2. Motions brought pursuant to CPLR §§ 3211, 3212 or 3213 **shall not** automatically stay any discovery, unless otherwise ordered by the Court.
3. On all motions, opposition papers, reply papers or legal papers submitted to the Court, a courtesy copy should be submitted to chambers with copies of all cited case law and statutory law attached. Failure to do such may result in denial of applications and/or rejection of papers.
4. Pursuant to CPLR § 3212 (a), a motion for summary judgment shall be **filed** no later than sixty (60) days after the filing of the Note of Issue, except with leave of court on good cause shown.
5. On **e-filed cases**, the handling attorney(s) and pro-se litigants, if any, are responsible for ensuring that a working email address is affiliated with the NYSECF system. Chambers is **not responsible** for adding or deleting any email addresses from the NYSECF system.
6. On **e-filed cases**, a “working hard copy” of any e-filed papers, **must** be submitted to Chambers with **all exhibits properly tabbed**. Additionally, copies of all cited case law and statutory law should be attached. **Working hard copies must be received by the Court no later than the return date or any adjourned date** in order to have the e-filed papers considered. The **e-filing confirmation notice must be annexed to the back of the litigation back** of your working hard copy **facing out**.

7. On **non e-filed cases**, courtesy copies or working copies **must** be submitted, to the Court. All motion papers **must** be received **no later than 9:30 a.m.** on the return date of the motion and must have copies of all case law and statutory law cited therein attached.
8. No sur-reply affidavits, affirmations, memoranda of law or letters will be accepted or considered by the Court after the return date of any motion or cross-motion without leave of the Court.
9. Reply papers are permitted on all motions, cross-motions, and petitions. Reply papers are not permitted on orders to show cause without the leave of Court.
10. The Court may require the parties to appear at a conference to discuss a pending motion. The failure to appear at such 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.
11. In the event a case is already scheduled for a conference with this Part, counsel should endeavor to coincide the return date of a motion, where feasible, with the previously scheduled conference. Where a motion is previously filed, any subsequent movants shall endeavor to coincide the return date(s) of any such subsequently filed motions, where possible.
12. **All exhibits must be clearly tabbed**; no exhibits shall be double sided; and no mini-scripts are accepted. Motions not consistent with this rule will be rejected. Opposition papers need not duplicate deposition transcripts or voluminous medical records annexed to the moving papers and may refer to the relevant exhibit cited by the movant or to the NYSCEF document number.
13. All submissions shall be fully and securely bound and shall have a litigation back attached thereto. All motion papers greater than two (2") inches thick must be split into multiple volumes and secured by heavy duty staples or ACCO fasteners and clearly marked with a copy of the Notice of Motion on each volume (e.g. 1 of 3, 2 of 3, 3 of 3). All Orders to Show Cause shall be ACCO fastened on the top and **not** the bottom of the papers
14. When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document.
15. Counsel must advise the Court, in writing (upload to NYSCEF), 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.

16. All motions, opposition, reply, orders to show cause, petitions, or applications, must contain copies of all cited case law and statutory law attached or else it will not be considered.

Writs and Contempts: All applications shall be calendared on the date returnable. Appearance by all parties is mandatory unless advised otherwise by the Court. No adjournments will be considered or granted unless a stipulation consenting to the adjournment, signed by all parties and any alleged contemtor who is not a party, is received in Chambers no later than 12:00 p.m. of the day prior to the return date.

Parties are directed to review Section 202.8-b of the Uniform Rules for the Supreme Court and County Court, eff February 1, 2021, regarding the length of motion papers. This rule must be adhered to strictly. Lawyers who ignore or disobey this rule may be subject to sanctions including, but not limited to, the striking of all their papers on the motion.

Temporary Restraining Orders: No temporary restraining order contained in an order to show cause will be extended beyond the initial return date of the motion except upon written stipulation “so ordered” by the court or as otherwise directed by the court. If the parties or counsel cannot agree to the continuation or termination of a temporary restraining order, all counsel and any *pro-se* litigant must appear on the return date of the motion. The failure to appear will be deemed a waiver of the defaulting party’s/non-appearing party’s position with respect to the continuation or termination of the TRO.

Cross-Motions: Submission of a cross-motion with a stated return date that is beyond the return date of the original motion will not serve to adjourn the original motion.

Summary Judgment: Motions for summary judgment shall be returnable no later than 60 days after the filing of a note of issue.

Parties are directed to review Section 202.8-g of the Uniform Rules for the Supreme Court and County Court, eff July 1, 2022, regarding summary judgment motions. Pursuant to Section 202.8-g(a), the parties are hereby directed that, upon any motion for summary judgment, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. Section 202.8-g must be adhered to strictly. Lawyers who ignore or disobey this rule may be subject to sanctions including, but not limited to, denial of motion without prejudice to renew, and/or any other appropriate sanction.

Discovery Motions: All discovery motions must contain an affirmation of good faith that strictly complies with 22 NYCRR 202.7(c). Failure to comply will result in denial of the motion. Such motions may not be filed without approval from the Court.

Discovery in General: Parties are directed to review, and be familiar with the following sections of the Uniform Civil Rules for the Supreme Court and the County Court, eff. February 1, 2021: 202.20 (Interrogatories limited to a maximum of 25); 202.20-a, (procedures related to privilege logs); 202.20-b (limitations on depositions); 202.20-c (rules regarding responses and objections to discovery demands); and 202.20-d (procedures regarding deposing entities and identification of matters).

As is discussed, supra, and as is confirmed by rule 202.20-e, parties are required to strictly adhere to discovery schedules. Regarding discovery disputes, parties are required to meet and confer before involving the court or making a motion (Rule 202.20-f). It is the policy of this Part to not accept letters as good faith efforts, unless a series of letters indicates an interaction among counsel, and not just a one-sided statement or threat.

ADJOURNMENT REQUESTS

A. Requests to Adjourn Motions and Conferences:

1. Parties should contact the courtroom clerk with all questions regarding return dates and adjournments on **Motions**. If an adjournment of a motion is being requested, parties must first seek the consent of their adversary. **If the adjournment is on consent, a stipulation regarding the adjournment should be uploaded to NYSCEF.** If the adversary does not consent, a conference with the law secretary, either by phone or in person, can be requested.

2. Adjournment requests of **Conferences** (excluding PC/DCM/Central Jury appearances) may only be sought through Chambers by completing the adjournment request form. Absent emergency, all forms must be submitted to chambers at least 2 business days in advance. Potential dates amenable to all parties must be provided on the adjournment request form (**requested adjourn dates should be restricted to Monday, Tuesday or Thursday**) which is to be completed in its entirety and uploaded to NYSCEF with a copy emailed to judgesingerremote@nycourts.gov.

3. Except for applications made in Court, and only upon approval of an adjournment request, letters confirming adjournments **MUST** immediately be uploaded to NYSCEF and emailed to the judgesingerremote@nycourts.gov email address with all counsel copied. The letter **MUST** contain full names of all parties; index number; refer to the original date and specify that a motion and/or conference is being adjourned to a date and time certain. Do not mail letters to the chambers, (however, any method may be used to copy parties/counsel on such letter), and do not use any email address other than judgesingerremote@nycourts.gov.

4. **Adjournment requests which are left on the Chamber's Voice Mail shall be disregarded.** An adjournment request is not granted until the form is received by chambers, approved by Chambers and a confirmation letter is received by Chambers after

approval pursuant to the preceding paragraph.

5. Adjournments requested due to an attorney's actual engagement on trial must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Part 125.

B. Requests to Adjourn Discovery Deadlines:

1. No adjournments of discovery deadlines set forth in the Preliminary Conference Order shall be permitted without prior Court permission. Depositions are court-ordered pursuant to the PC Order. Deposition dates specified in the PC Order may not be adjourned to any later date without prior court approval.

- a. Requests for adjournments of deposition dates shall be made by sending a letter as an attachment and emailing the adjournment request form to chambers using judgesingerremote@nycourts.gov at least three business days before the scheduled deposition date. Counsel requesting the adjournment must state a reasonable basis for the request, a proposed new deposition schedule with firm dates, and whether the request is on consent of all parties. **Where a request is granted, counsel shall upload a confirming letter (copied to all counsel) to NYSCEF and email a copy to Chambers via judgesingerremote@nycourts.gov,** setting forth the new approved EBT schedule with firm dates, times and location, and that "EBTs may not be adjourned to any later date without prior Court approval." Requests to adjourn EBTs are not granted until the Court's in receipt of the confirming letter referenced herein.
- b. Any outstanding discovery issues that may potentially impact the holding of party depositions should be addressed sufficiently in advance of the Court-ordered EBT dates.
- c. Counsel must complete depositions prior to the scheduled Compliance Conference.

C. Requests to Adjourn Preliminary Conferences:

1. Preliminary Conferences shall be held in accordance with the rules set forth in 22 NYCRR § 202.19 in the Preliminary Conference Part of this courthouse, not before Justice Singer. 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 (telephone no. 516-493-3120), not to Chambers.

D. Requests to Adjourn Pre-Trial (DCM/CCP) Conferences:

1. Requests to adjourn pretrial conferences are to be directed to the CCP/DCMPart (telephone no. 516-493-3113), not to Chambers.

Trials.

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 and all bills of particulars served. Counsel shall further provide the Court with a list of proposed jury charges and the contentions of each party and proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court and to the stenographer. A copy of all exhibits shall be provided to the Court. All exhibits over 25 pages must be Bates stamped. Counsel shall notify the Court and opposing counsel in the conference of any motions in limine and any supporting statutory or case law. All motions in limine shall be submitted at this time and must comply with this part's rules as it relates to the submission of motions (ie. all case law and statutory law attached). Counsel shall notify the Court of their inability to stipulate to the admission of any exhibits to be offered at trial. Counsel shall further advise the Court of the witnesses to be called, and if any are experts, shall further provide the information required by CPLR 3101 (d)(1)(I). Counsel shall provide the Court with copies of all deposition transcripts anticipated to be used at trial as well as a trial memorandum, not to exceed 5 pages, setting forth the party's position, the relevant factual and legal issues to be tried, and citing relevant statutes and/or case law with copies attached. Counsel shall also provide copies of all prior decisions in the case, including any appellate decisions. A chronological listing of settlement negotiation history shall also be provided. The filing of a note of issue is a condition precedent to the commencement of any trial.

Malpractice "Departures": In cases involving claims of professional negligence, on 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 counsel for all parties with a list of the departures from the standards of good and accepted practice which that party asserts were testified to by its expert witness or witnesses. Where the testimony has been transcribed, page references will be required.

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, amendments thereto, bills of particulars; 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)(I); and 4) Pre-trial memoranda of law. (Not to exceed 5 pages, setting forth the party's position, the relevant factual and legal issues to be tried and citing and providing relevant statutes and/or case law. 5)

A chronological listing of settlement negotiation history. **The parties shall be required to forthwith provide a transcript of the trial.** The filing of a note of issue is a condition precedent to the commencement of any trial. It is the obligation of counsel or an unrepresented party or parties to contact the court 48 hours prior to the start of the trial to confirm all parties will appear. Failure to contact the court can result in the trial date being changed or vacated.

Miscellaneous Rules:

Ex-Parte and Miscellaneous Communications: The Court will **not** accept any ex parte communications by telephone or letter from counsel or a self-represented litigant. The Court will **not** accept any correspondence between counsel except as may be necessary to confirm a consent adjournment. Individual parties may contact the Court to request a conference or to inquire about Part procedures that are not otherwise contained in these rules.

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 and the court expects the court personnel to be treated in like manner.

Compromise Applications: All applications for court approval of a proposed compromise of an infant or other disabled party's claim must be submitted through the Special Term, with proof of service on all remaining parties. Compliance with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67 and a proposed distribution of net amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. The Court will not accept medical reports/affidavits executed more than six months prior to the submission date. The report must indicate whether the injured plaintiff has fully recovered, and if not, the nature and extent of the injuries and the costs of future treatment. Since the Court may direct that notice of the application be given to all persons who possess claims against the proceeds recoverable under the compromise, including those with statutory liens, the names and addresses of all such persons and the amount of their prospective claims must be set forth in the petition. If no person has asserted such a claim, the petition must so state. Once the submissions are complete, an appearance date shall be scheduled by the Court.

Hearings/Inquests: All hearings and/or inquests emanating from cases in the

inventory of IAS Part 23 shall be scheduled by the Court and shall be conducted in person. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest.

Sanctions: The Court will not consider a sanctions application 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.

Note of Issue: If the deadline for filing a note of issue (NOI) has passed and the note of issue has not been filed, the complaint will be subject to dismissal. **ALL** parties will be required to appear in person on the last Monday of the month following the due date of the NOI, at 9:30 a.m., for the "Late NOI Calendar". Failure to appear by any party will result in the court issuing an order pursuant 22 NYCRR 202.27.

Mandatory Alternative Dispute Resolution (ADR): In light of the Mandatory ADR program, all cases before the court will be scheduled on two separate tracks. One track will be the settlement/ADR track, and appearances on the settlement track can be scheduled before the IAS Part, a JHO or volunteer mediators. The parties are also free, as always, to take part in private mediation. The second track will be the compliance/certification track and that shall remain with the IAS Part. However, parties should expect that EVERY conference before the IAS Part will also be a settlement conference, and parties should appear with the authority to settle the matter.