

# JUSTICE DAVID P. SULLIVAN

## FORECLOSURE PART RULES & PROCEDURES

Justice: Hon. David P. Sullivan  
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- I. Part Rules: Prior to the preliminary conference, attorneys or parties appearing pro se must obtain the rules of this Part, thoroughly review them and comply with them throughout the course of a matter assigned to this Part. All of the rules applicable to attorneys are equally applicable to pro se parties.
- II. Preliminary Conferences
  - a. Adjournments: Requests for adjournments of Preliminary Conferences are to be addressed to the DCM Part and not to chambers.
  - b. Deadlines: Discovery, Certification and Note of Issue deadlines set forth in the Preliminary Conference Order will be enforced. Deadlines may not be extended without prior approval of the court. Dates stipulated by the parties are subject to change by the court.
- III. All Other Conferences
  - a. Appearance Required: Unless otherwise directed by the court, attorneys shall appear via Microsoft Teams at the time indicated for all conferences. All attorneys appearing for a conference shall be knowledgeable and familiar with the case. Appearances shall be virtual unless directed otherwise by the Court.

- b. Late Arrival: Attorneys shall immediately contact opposing counsel and the court in the event of a delay in arrival for a scheduled conference.
- c. Adjournments: Adjournment requests must be made through chambers prior to the conference date. The court will consider granting such requests upon good cause shown and the consent of all parties. A proposed date certain consented by all parties must be requested at the time the adjournment is sought. If all parties do not consent to the adjournment, application must be made to the court on the day of the scheduled conference.

#### IV. Motions

- a. Appearances: There are NO APPEARANCES of any kind on foreclosure motions. Motions are on submission of papers only.
- b. In General:
  - 1. Service: Motions are to be served and filed in conformity with CPLR 2214.
  - 2. Appearances: Counsel are not required to appear on the return date unless directed by the court or unless there is a contested application for an adjournment. Appearance will be via Microsoft Teams.
  - 3. Oral Argument: The court will determine after the return date, whether oral argument is warranted. Upon such determination, attorneys for all parties will be contacted and advised of the date for oral argument.
  - 4. Adjournments: Adjournment requests must be made through the Foreclosure Motion Clerk. The court will consider granting such requests upon good cause shown and with consent of all parties. A date certain consented by all parties must be requested at the time the adjournment is sought.
  - 5. Withdrawn Motions: If a motion is withdrawn, the moving party must upload a letter or stipulation to NYSCEF and also e-mail a copy to chambers.

## V. Communication with Chambers

- a. All communications with chambers by letter, must set forth the title of the action, full names of the parties and index number, and must be submitted via NYSCEF.
- b. Copies of correspondence between counsel shall not be sent to the court except as 22 NYCRR 202.7 and these Part Rules permit.
- c. The court will not accept ex parte communications on any substantive issue.

## VI. Letter Applications

- a. Substitution of Referee: In the event a court-appointed Referee is unable to serve due to death, retirement from practice, no longer being registered on the Part 36 panel, or declines initial assignment, application for substitution can be made by letter accompanied by a proposed order which shall be filed electronically along with a courtesy email to chambers CC'd to all parties. A request for the removal of a referee for cause must be by formal motion.
- b. Substitution of a Bank or Newspaper: In the event a bank designated for a referee to deposit funds, or a newspaper designated for publication, has gone out of business or is otherwise unable to perform the designated function, application for substitution can be made by letter accompanied by a proposed order which shall be filed electronically along with a courtesy email to chambers CC'd to all parties.
- c. Cancellation Fees for Referee for a Cancelled Sale: Cancellation fees are not an automatic entitlement and may be requested only in the event that an auction sale is cancelled, without any fault of the referee, upon less than 24 hours notice to the referee, and the referee has taken some actual action in furtherance of the sale. Under those limited circumstances, the referee may submit a letter application for a cancellation fee detailing the circumstances warranting such fee which shall be filed electronically along with a courtesy email to chambers CC'd to all parties.