

**SUPREME COURT**  
**10<sup>TH</sup> JUDICIAL DISTRICT**  
*Nassau County, N.Y.*

**Civil Term - Part 27 Rules**

**JUSTICE DICCIA T. PINEDA-KIRWAN**

100 Supreme Court Drive  
Mineola, NY 11501

Part Clerk: Kerry O'Shaughnessy  
Phone: 516.493.3379  
Fax: 516.493.3317

**The Court WILL NOT entertain any *ex parte* communication, including but not limited to, mail, facsimile, e-mail and most importantly, any telephone call, to Chambers.**

**\*\*\*APPEARANCES ARE MANDATORY\*\*\***

Attorneys and unrepresented litigants must appear each time their case is scheduled in Part 27 (including preliminary, status, ADR, compliance and certification conferences, as well as on the motion calendar). Upon arrival, they shall alert the Court Officer or Court Clerk of their presence, submit their business card (including e-mail address and fax number).

An attorney appearing on a case for any purpose must be familiar with the case and authorized to resolve any and all issues, including settling the case, and shall make all appearances until they are relieved by the Court or a Consent to Change Attorneys has been filed with the Clerk of the Court.

Contravention of these Part Rules may result in sanctions, including the granting of a default judgment, dismissal of the action, or the issuance of any other order that the Court deems just (Uniform Rules for Trial Cts [22 NYCRR] § 202.27).

**PRELIMINARY CONFERENCE**

At the preliminary conference, the attorneys or parties, if not represented, must obtain and review the rules of this part. You are responsible to become familiar with the part rules and to comply with them. Preliminary conference adjournments are to be addressed to the DCM Clerk's office and not to Chambers.

**There will be only one calendar call. The following calendars will be heard in Part 27 of the Nassau County Supreme Court. For information regarding Alternative Dispute Resolution:**  
*<http://ww2.nycourts.gov/COURTS/10JD/nassau/supreme.shtml>*

**ADR CONFERENCES - Mondays at 10:00 A.M.**

**COMPLIANCE CONFERENCE - Tuesdays at 10:00 A.M.**

**CERTIFICATION CONFERENCE - Wednesdays at 10:00 A.M.**

**MOTIONS/CONFERENCES - Thursdays at 10:00 A.M.**

**Discovery deadlines, Certification Deadlines and Note of Issue deadlines, will be enforced. Deadlines may not be extended absent prior approval by the Court.**

Discovery related motions are expected to be **RESOLVED** by the parties. Discovery motions, including motions to strike cases from or restore cases to the Trial Calendar, must be in compliance with Uniform Rules for Trial Cts (22 NYCRR) § 202.7, setting forth, **in detail**, the efforts made by the moving attorney to obtain discovery prior to requesting judicial intervention. Conclusory statements, a single *pro forma* letter sent in an attempt to satisfy this requirement or other failure to demonstrate good faith efforts may result in a summary denial of the motion.

Pursuant to CPLR 3212(a), summary judgment motions 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. Motions pursuant to CPLR 3211 and 3212 shall not automatically stay any discovery, unless by order of the Court.

All orders to show cause must comply with Uniform Rules for Trial Cts (22 NYCRR) § 202.7(d). Failure of the moving party to appear will result in the motion being deemed abandoned, and any opposition papers will not be considered.

All motions, cross motions, and *ex parte* applications submitted shall be in compliance with Uniform Rules for Trial Cts (22 NYCRR) §§ 202.5 and 202.7. In addition, all pages and paragraphs must be numbered and all exhibits are to be preceded by an exhibit tab which **protrudes** from the stack of papers. All submissions are to be securely fastened, so as to prevent the papers from being lost. Failure to comply with the requirements of this section may result in the rejection of the noncomplying papers.

Answering papers, including affirmations in opposition and reply affirmations, will be accepted only on the return date in the Part. Service requirements under CPLR 2214 and 2215 will be strictly enforced. No sur-reply papers will be considered without express leave of the Court. No papers shall be accepted after a motion is marked submitted, without express leave of the Court.

Counsel are required to provide the Court with their e-mail addresses and fax numbers on all submissions. In all communications with chambers by letter, the title of the action, full names of the parties and the index number shall be set forth, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall **not** be sent to the Court except as these Part Rules and 22 NYCRR 202.7 permit.

## **E-FILING RULES AND PROTOCOLS**

All parties should familiarize themselves with the statewide E-Filing Rules: Uniform Rules for Trial Cts (22 NYCRR) § 202.5-b and 202.5-bb, which are available at <http://ww2.nycourts.gov/rules/trialcourts/202.shtml>. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033. Local E-Filing questions can be addressed to Nassau E-Filing at (516) 493-3136.

## **HARD COPY SUBMISSION**

Working/hard copies are required to be submitted to the DCM OFFICE in ALL cases of E-FILED *EX PARTE* APPLICATIONS, and **a working copy must be submitted at the call of the calendar\* in ALL cases of E-FILED MOTIONS**. All hard copy submissions in E-filed cases must bear the Notice of Hard Copy Submission - E-Filed Case required by Uniform Rules for Trial Cts (22 NYCRR) § 202.5-b(d)(1). Failure to do so will result in the matter being marked off the calendar, or, in the case of opposition papers, consider the motion as unopposed.

## **ADJOURNMENTS**

Applications for adjournments on consent or otherwise will **ONLY** be entertained at the call of the calendar and will **NOT** be entertained by mail, fax or by telephone. *Engagement of counsel* shall be a ground for adjournment by affirmation and in accordance with 22 NYCRR §125.1. Adjournments on consent will be permitted at the court's discretion. All adjournment stipulations must contain the signatures of the individual attorneys consenting to the adjournment. Members of the Bar are to make every effort to notify their adversaries and co-counsel of all applications for adjournment in advance.

**DISCOVERY RELATED MOTIONS WILL NOT BE ADJOURNED.**

**WITHDRAWAL** of motions - **not adjournments**- may be communicated by **Fax to 516.493.3317** with prior notice of same to the adverse party no later than **9:30 AM** on the return date of the motion.

All copies of decisions will be available either online or at the County Clerk's Office. Counsel should NOT contact Chambers for a copy of a decision rendered. All inquiries to case or calendar status are to be made to the appropriate clerk's office.

**Motion Support**                      **516.493.3140**

**Ex Parte Support**                      **516.493.3059**

**Order to Show Cause**                      **516.493.3076**

**Infant Compromise**                      **516.493.3049**

## **SETTLEMENT AND DISCONTINUANCES**

If a case is settled or discontinued, the parties shall notify the court **immediately** withdrawing any pending motion or application. Stipulations of settlement or discontinuance **MUST** be sent to **chambers** immediately *via facsimile* or in person at an appearance in Part 27, in order to facilitate judicial economy.

## **TRIAL RULES**

Counsel should ascertain the availability of all witnesses and subpoenaed documents. Any special needs, e.g., interpreter, easels, blackboards, shadow boxes, television, subpoenaed, material, etc., must be reported to the Court Clerk, in advance, so as not to delay the progress of the trial.

## **MARKED PLEADINGS PLUS**

Plaintiff's counsel shall furnish the Court with copies of marked pleadings, the bill(s) of particulars and copies of any case law and/or statutory provisions, including the NYC Administrative Code and the Traffic Rules and Regulations of the City of New York, which any party will rely upon.

Counsel for the parties shall provide to the Court:

- A. A chronological summary of all expert reports to be offered into evidence together with a glossary of terms that are used or are expected to be used by the expert witness, but are typically unfamiliar to a lay person;
- B. A chronological list of all dates relevant to the matter on trial;
- C. All reports, depositions and written statements which may be used to either refresh a witness' recollection and/or cross-examine the witness;
- D. To the extent any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination) you must, in advance, provide the Court and your

- adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury;
- E. A list of the names of all witnesses to be called by you and for each such witness, the elements of proof to be supplied or addressed by such witness; and
  - F. Suggested jury charges and a suggested verdict questionnaire. Amendments thereto shall be permitted at the final charging conference. Jury charges should be referred to by the PJI number and topic. If any changes to the PJI are suggested, then the entire proposed charge should be set forth and the changes should be highlighted. Citations to appropriate statutory or common law authority must be given in support of suggested non-PJI jury charges or suggested PJI modifications.

### **PRE-TRIAL CONFERENCES WILL BE HELD PRIOR TO EVERY TRIAL**

At this conference counsel should be prepared to:

- A. Discuss settlement;
- B. Advise the Court as to all anticipated disputed issues of law and fact, and provide the Court with copies of all statutory and common law authority upon which counsel will rely;
- C. Stipulate to undisputed facts and the admissibility of clearly admissible documents and records;
- D. Advise the Court of any anticipated *in limine* motions or evidentiary objections which counsel intends to make. Motions *in limine* may be made orally, but must be supported by a memorandum of law with citations to the relevant statutes and case law relied upon, as well as treatises of evidence law. All prior decisions and orders relevant to any *in limine* application must be provided to the Court;
- E. Advise the Court of any anticipated requests for a jury instruction relating to missing witnesses and/or documents;
- F. Advise the Court of any anticipated requests for apportionment as to alleged culpable non-parties pursuant to CPLR Article 16;
- G. Discuss scheduling as well as the number of witnesses to be called at trial, and the estimated length of the trial; and
- H. Counsel is advised that, pursuant to Uniform Rules for Trial Cts (22 NYCRR § 202.26(e)), the Court may require parties, representatives of parties, representatives of insurance carriers or persons having an interest in any settlement, including those holding liens on any settlement or verdict, to also attend the conference.

*To access Court Rules go to:*

(<http://www.nycourts.gov/LegacyPDFs/courts/10jd/nassau/partrules/pineda-kirwanpartrules.pdf>)