

Hon. James Hudson
Acting Justice of the Supreme Court
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Riverhead, NY 11901-3092
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COMMERCIAL PART XLVI RULES AND PROCEDURES

Counsel Please Note: In light of the current Covid-19 Pandemic, all court appearances will be held virtually via Microsoft Teams unless arrangements for an in person appearance are made. Please make all requests for appearances and conferences by email to sufhudson@nycourts.gov.

Unless otherwise directed by the Court, the following rules shall govern practice in Part XLVI:

CORRESPONDENCE

E-FILE CASES:

All correspondence to the Court shall be e-filed and the Court shall be notified of same *via* e-mail to sufhudson@nycourts.gov.

MOTION PRACTICE

CALENDAR CALL:

Status and Compliance Conference calendars are scheduled at **9:45am** unless otherwise indicated by the Court. In the event of a scheduling conflict, please call and notify both the Court and adversary.

PRE-MOTION CONFERENCE:

Prior to submitting a motion on actions assigned to this Court, movant shall arrange and schedule a conference with the Court, notify all Parties to the action in advance, and prepare to articulate the issues and efforts toward resolution. No motion may be submitted in the absence of the pre-motion conference, which may be *via* **conference call** or by **Microsoft Teams**.

RETURN DATES/ SUBMISSIONS:

All motions made in cases assigned to Judge Hudson must be calendared for **Wednesdays** unless otherwise directed. All motions appearing on the Court’s Wednesday motion calendar shall be ready for oral argument, if the Court directs the appearance of Counsel.

PAPERS:

Timely filing of all papers in accordance with the **CPLR** is required. In e-filed cases, the Court does not require “**working copies**” of papers. Upon submission of e-filed documents, however, the Court would be obliged if Counsel notifies Chambers of same *via* an e-mail to sufhudson@nycourts.gov.

All non e-filed motion papers must be submitted through Special Term. Non e-filed motion paper exhibits shall be tabbed. The tabs shall be affixed to the lower portion of the exhibit, not on the side.

ADJOURNMENTS:

Adjournments of motions will be governed by **22 NYCRR 202.8 (e)**. All proposed adjournment dates of motions must fall on a **Wednesday**. All adjournments on consent shall be in writing. E-mail is preferred sufhudson@nycourts.gov, or facsimile (631) 852-3291. Adjournments must be received by chambers **no later than 3:00 pm on the day prior to the return date**.

If the consent of all appearing Parties is not obtainable, an oral application for an adjournment on or before the date the motion is returnable must be made by the party seeking the adjournment, upon due notice to all Parties, (both telephone conference or Microsoft Teams are available).

SETTLED OR WITHDRAWN MOTIONS:

The Court is to be advised **immediately** of settlement or withdrawal of any motion or any portion of any motion *sub judice*, and/or settlement of any underlying case with motions *sub judice*.

POST NOTE MOTIONS:

Neither an appearance nor a pre-motion conference is required for post-note of issue motions, unless requested by all Parties.

CONFERENCES

SCHEDULING:

Status and Compliance conferences **shall be calendared Mondays and Tuesdays** or on other days with prior permission of the Court. The Parties, on consent, may schedule a Settlement Conference with the Court. Conferences may be scheduled throughout the day.

APPEARANCES:

Appearances by persons with knowledge of the facts and vested with authority to make binding dispositions are required. Non-appearances will not be countenanced by the Court and may subject the non-appearing Party to one or more of the sanctions attendant with defaults (*see* **22 NYCRR 202.27; 22 NYCRR Part 130-2**). Attorneys are encouraged to schedule conferences *via* Microsoft Teams *via* (e-mail sufHUDSON@nycourts.gov).

Please e-mail a list of preferred dates and times that Counsel have agreed upon. Also, Counsels' e-mail addresses are required. You will receive an e-mail confirmation of your Microsoft Teams conference, and a Microsoft Teams invitation on the date calendared.

ADJOURNMENTS (NON-MOTIONS):

All applications whether on consent or over objection must be **communicated to the calendar department no later than 4:30 pm on the day prior** to the scheduled conference. The telephone number for the calendar clerk is (631) 852-1693. Any application to the Court seeking an adjournment must be done on prior notice to all Parties.

PRELIMINARY CONFERENCES:

Once the danger of the current Pandemic has passed, Preliminary Conferences will be held on Mondays and Tuesdays at One Court Street, Riverhead, New York, or on other dates with prior permission of the Court. Counsel for the respective Parties are directed to appear at **9:45 am** for said preliminary conference. All matters, including those raised by pending motions and those contemplated by **22 NYCRR 202.19**, shall be considered at the preliminary conference. **In light of Public health concerns, until further notice, all preliminary conferences shall be conducted either by telephone or *via* Microsoft Teams.** Please e-mail sufHUDSON@nycourts.gov to arrange a conference.

COMPLIANCE CONFERENCES:

These conferences will be scheduled and conducted in accordance with the provisions of **22 NYCRR 202.19**. Counsel are expected to have authority to dispose the matter.

ELECTRONIC FILING:

The Court no longer requires working copies for electronic submissions. Upon e-filing any document, the Court is to be notified by e-mail to sufHUDSON@nycourts.gov.

TRIALS

JURY TRIALS:

A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. Thereat, 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 proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court and to the stenographer. Counsel shall advise the Court of the number of witnesses to be called, and if any be experts, shall provide the information required by **CPLR 3101(d)(1)(I)**.

NON JURY TRIALS:

Non-Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. In addition thereto, for non-Jury trials, Counsel shall submit a proposed order framing the issues to be tried. The Parties shall be required to provide a transcript of the trial. The filing of a Note of Issue is a condition precedent to the commencement of any trial.

HEARINGS/ INQUESTS: All hearing and or inquests from cases in the inventory of IAS Part XLVI shall be scheduled by the Court. The filing of a Note of Issue is a condition precedent to the commencement of any hearing or inquest.

EX PARTE COMMUNICATIONS WITH CHAMBERS: Except to the limited extent permitted by these rules and by the rules set forth at **22 NYCRR 100.3**, *ex parte* communications with the Court or any member of its staff, by telephone or otherwise, is strictly prohibited.

SPECIAL RULE PERTAINING TO ELECTRONIC FILING:

On June 9th, 2020, the Chief Administrative Judge issued Administrative Order AO/121/20 which reads in relevant part “In courts and case types approved for electronic filing through the New York State Courts Electronic Filing System (NYSCEF), represented Parties must commence new matters *or proceed in pending matters exclusively by electronic filing...*” (emphasis ours). Pursuant to the aforementioned Order, all represented Parties are directed to convert their non-e file cases to e-filing at the earliest opportunity. As of July 24th, 2020, no motion, petition or other application to the Court by Counsel will be accepted unless the matter has been converted to e-filing as provided by **22 NYCRR 202.5-b(b)(2)(iv)**. This rule is mandatory so long as AO/121/20 remains in force and effect. Thank you.