

Civil Term - Part Rules, Part 3, Courtroom 26

Justice Joseph Risi
88-11 Sutphin Boulevard
Jamaica, NY 11435

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All inquiries as to case or calendar status are to be made to the appropriate clerk's office.
IAS Motion Support Office: (718) 298-1009
Ex-Parte Support Office: (718) 298-1018
Matrimonial Office: (718) 298-1012

Preliminary Conference

A preliminary conference shall be scheduled by the Court: (1) within forty-five (45) days after filing a Request for Judicial Intervention (see, 22 NYCRR § 202.12 [b]); (2) upon filing a written Request for a Preliminary Conference with the Clerk in Room 140 of the Supreme Court in Jamaica (see, 22 NYCRR §202.12[a]); or (3) when an appropriate notice is filed in malpractice or certiorari cases pursuant to 22 NYCRR §§202.56 and 202.60.

Preliminary conferences will be held on Thursdays at 11:30 a.m. in the Preliminary Conference Part, Room 314 of the Jamaica Courthouse located at 88-11 Sutphin Boulevard, Jamaica, New York, and are presided over by a court-appointed Referee, unless otherwise directed by the Court. Failure to appear at a scheduled preliminary conference may result in discovery being ordered ex-parte or any other appropriate sanction, including a preclusion or dismissal order.

Any inquiry pertaining to preliminary conferences shall be made to the Preliminary Conference Part at (718) 298-1046.

Compliance Conferences

All Compliance Conferences will be held before Justice Esposito in Room 313 at the Jamaica Courthouse on the date scheduled in the Preliminary Conference Order.

Inquiries pertaining to compliance conferences shall be made to the Compliance Conference Part at 718-298-1093.

Motion Practice

Scheduling

All Tax Certiorari matters shall be made returnable the second Tuesday of the month at 9:30 a.m. in the Part 3 courtroom of the Jamaica Supreme Court located at 88-11 Sutphin Boulevard, Room 26, Jamaica, New York. There will only be one call of the motion calendar.

All non-commercial motions, with the exception of Tax Certiorari matters, shall be made returnable, Tuesdays, at 10:30 a.m. in the Part 3 courtroom of the Jamaica Supreme Court located at 88-11 Sutphin Boulevard, Room 26, Jamaica, New York. There will be two calls of the motion calendar. The second call of the calendar will be immediately thereafter.

Failure to notice a motion in compliance with the designated day, time and location above shall result in the motion being marked off calendar without prejudice.

Part 3 will administratively reschedule any motion noticed for a holiday. The movant will be responsible for notifying all parties of the administratively rescheduled date and providing proof of same to the Part on the rescheduled adjourned date.

When a motion or application is "marked off" calendar for non-compliance with the Part rules regarding scheduling, appearance or submission of papers, a new motion or application may be filed in accordance with the Part rules. A motion to restore or to renew or reargue is not required.

The parties shall notify the Court immediately if any pending motion or application has been settled or withdrawn. A stipulation of settlement or withdrawal of the motion or application shall be sent to Part 3 via facsimile or e-mail and filed with the Court.

Paper Submissions

All responsive papers must be submitted in person by counsel on the return date of the motion or application. Part 3 does not accept any papers by e-mail or by fax.

Papers shall not be accepted prior to the call of the calendar, with the exception of stipulations withdrawing motions or applications. Such stipulations may be submitted on the morning of the return date in person or by service.

No additional papers shall be accepted after the motion has been marked without the expressed permission of the Court.

E-Filed Matters

All parties should familiarize themselves with the statewide E-Filing Rules: Uniform Rules for Trial Courts (22 NYCRR) §§202.5-b and 202.5-bb, available at www.nycourts.gov/efile. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or via e-mail at efile@nycourts.gov.

In addition to the requirements set forth in 22 NYCRR §§202.5-b or 202.5-bb, a 'Working Copy' of the motion or application, together with all supporting documents, clearly marked 'Working Copy' must be submitted to the Court at the calendar call. Failure to provide the required 'Working Copy' at the call of the calendar will result in the matter being marked off the calendar. A party that has opted out of participation in e-file will file documents in hard copy, which shall include, on a separate page, firmly affixed thereto, the "Notice of Hard Copy Submission E-Filed Case" form. This form can be found at the NYSCEF site at:

<https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/notice.hard.copy.submission.pdf>

Support documentation submitted with all applications made to the court (including 'Working Copies'), must contain page numbers and numbered paragraphs; all exhibits are to be preceded by an exhibit tab which protrudes from the papers; and the submissions are to be securely fastened. Failure to comply with the requirements of this section may result in rejection of the non-complying papers.

Appearances

Appearances are mandatory for all motions and applications. Appearances shall be made by attorneys familiar with the case, prepared and authorized to resolve or settle any and all issues.

Discovery related motions: On any discovery related motion or application attorneys are encouraged to conference these matters among themselves with the expectation that the issues will be resolved by stipulation. The Part is prepared to assist in connection with these motions or applications by virtue of preclusion language or so-ordering the stipulation, as may be necessary. All stipulations must indicate that the motion and any cross-motion is/are being withdrawn pursuant to the stipulation and must be signed by the attorneys appearing at the calendar call.

Any items of discovery not specifically identified as outstanding at the time of the stipulation resolving the motion are deemed waived.

Adjournments

Part 3 reserves the right to supplement or amend the following rules regarding adjournments at any time.

First time requests for an adjournment of any nature, on consent, will be accepted by mail, fax, or e-mail. First time requests for an adjournment of any nature, which are not on consent, will ONLY be entertained at the call of the calendar.

Requests for an adjournment beyond ONE will be granted sparingly in the court's discretion.

Briefing Schedule: In the event an adjournment on the initial return date is granted, a briefing schedule will be issued with dates for responsive papers. This schedule shall be conveyed verbally or in writing to the attorneys and shall appear on the face of the motion papers. Failure to serve responsive papers in accordance with the briefing schedule shall result in the rejection of those papers on the adjourned date.

Trials

Plaintiff's counsel shall requisition all subpoenaed records to the Part 3 courtroom immediately after assignment of the case to this Part. 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 Part Clerk, at least 24 hours in advance, so as not to delay the progress of the trial.

All counsel must submit to the Court, prior to the commencement of trial, marked pleadings, a copy of the bill of particulars, a witness list, an exhibit list, proposed jury instructions and a proposed jury verdict sheet. Counsel must also know the availability of all witnesses who they intend to call during trial.

Amendments to the proposed jury instructions and the proposed verdict sheet, shall be permitted prior to the final charge conference. All requested jury charges should be referred to by PJI number and topic. If changes to the PJI are suggested, then the entire proposed charge should be set forth with the changes made highlighted. Citations to appropriate statutory or common law authority must be given in support of proposed non-PJI jury charges or proposed PJI modifications.

To the extent any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination) counsel must, in advance, provide the Court and counsel for all other parties with the page and line numbers of all such testimony, so that all objections may be addressed prior to use before the jury.

The Court encourages trial exhibits be pre-marked for identification and, where possible, that the parties stipulate to the admissibility of clearly admissible documents and records.

Pre-trial Conferences

Pre-trial conferences will be held prior to every trial. At these conferences, 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, however they must be supported by a memorandum of law. Any written motions in limine require proof of payment of the appropriate fee. Counsel shall provide the Court and all parties with copies. 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 request for apportionment as to alleged culpable non-parties pursuant to CPLR Article 16;
- g) Discuss scheduling and the estimated length of the trial. Counsel should alert the Court as to any anticipated problems regarding the attendance at trial of parties, attorneys or essential witnesses and any other practical problems that the Court should consider in scheduling; Trials will be conducted on a continuing day-to-day basis until conclusion. No adjournments or delays during trial will be accepted, unless exigent circumstances exist. All actions are generally bifurcated. The Court expects, the parties to be prepared to proceed to trial on damages immediately following a plaintiff's verdict on liability.

Settlements and Discontinuances

If an action is settled, discontinued or otherwise disposed of, counsel shall immediately inform the Court by filing a stipulation of discontinuance pursuant to CPLR §3217 and providing a courtesy copy to the Clerk in Part 3, or, where the action is not discontinued, by submitting a copy of the stipulation of settlement or a letter advising of the disposition.

Infant's Compromise Orders

Applications for Infant Compromise Orders shall be made pursuant to CPLR §1207(a) and shall be supported by the documentation required by CPLR §1208 and 22 NYCRR 202.67. Applications submitted without the appropriate documentation will be denied. Infant compromise hearings will be scheduled by the Court and the parties will be notified of the hearing date by mail or fax.

Uncontested Matrimonials

Where matrimonial papers have been rejected by the court for revision, all revised matrimonial papers must be resubmitted by the date set forth in the Memorandum or the action may be dismissed as abandoned. All revisions are to be submitted, by hand, to the Clerk in Part 3.