

I.A. Part Part 4 / Commercial Division Part B Rules

JUSTICE MARGUERITE A. GRAYS

Supreme Court of the State of New York, Queens County
88-11 Sutphin Boulevard, Jamaica, New York 11435

Courtroom 66

Part 4 Email: QSCPART4@nycourts.gov

Commercial Division Part B Email: QNSCDPTB@nycourts.gov

Principal Law Clerk:

Part Clerk:

Mr. Eric Kang

Secretary:

Ms. Melonie D. Holder-Mayzoub

Part 4/CDPart B/courtroom: 718-298-1214

Part 4/CD Part B/chambers: 718-298-1212

Part 4/CD Part B/Fax 718-298-1107

IAS Motion Support: (718) 298-1009

Ex Parte Support Office: (718) 298-1018

Trial Scheduling Part: (718) 298-1048

Virtual Motion Calendar: Tuesdays at 10:00 a.m. (No appearance)

CD Pre-Trial Conference: As scheduled virtually via Microsoft TEAMS

Preliminary Conferences: Commercial Division - Mondays at 11:30 a.m.

Submit complete Orders via email to QNSCDPTB@nycourts.gov

Compliance Conferences: Commercial Division - Tuesdays at 11:30 a.m.

Submit orders via email to QNSCDPTB@nycourts.gov

PART 4 and CD Part B Rules effective as of 8/9/23 and supercede all previous rules.

GENERAL

1. These Rules have been amended to address certain procedural changes instituted due to the COVID-19 pandemic. All counsel and pro se litigants should check these Rules regularly for any changes.
2. All counsel and pro se litigants must familiarize themselves with these Part Rules and the Rules of the Commercial Division of the Supreme Court (22 NYCRR 202.70).¹
3. A Motion Submission Form (MSF) must be sent to the Part Clerk at QSCPART4@nycourts.gov or QNSCDPTB@nycourts.gov at least two (2) business days prior to the return date of any motion.

¹ The Commercial Division Rules are available at: <http://ww2.nycourts.gov/rules/trialcourts/202.shtml#70>.

4. Please notify the Court immediately, especially while a motion is pending, if the action or petition has been settled, discontinued and/or the motion has been resolved, via email at QSCPART4@nycourts.gov or QNSCDPTB@nycourts.gov, and cc all parties to the action.
5. **I.A. Part 4/Commercial Division Part B is entirely an electronic part. Correspondence with this Part shall be by e-mail, which is the preferred method of communication, or by telephone, only. Postal mail is discouraged unless necessary to provide the court with an originally executed document.**
6. All inquiries regarding motions must be made to either Motion Support at (718-298-1009) or the Clerk of the Part at QSCPART4@nycourts.gov or QNSCDPTB@nycourts.gov, or (718) 298-1214. **No telephone inquiries concerning motions or applications may be made to chambers.** Please include caption, index number and a brief description of the subject matter of the email in the “subject” box. All appearing parties must be included on any email
7. Counsel and litigants (represented or self-represented) are advised that Justice Grays, her Principal Law Clerk, and the Part Clerk may not engage in any *ex parte* communications.
8. To create opportunities for attorneys knowledgeable with the subject matter of the action before the Court, and who historically have been under-represented in the Commercial Division and I.A. Part, participation by such attorneys is strongly encouraged. This can be achieved, for example, by having a less senior attorney, who prepared the brief on a motion, argue the motion before Justice Grays.
9. **Important - Individual Court Parts DO NOT receive email notification when papers are uploaded to NYSCEF. All stipulations of discontinuance should be uploaded to NYSCEF and emailed to QSCPART4@nycourts.gov or QNSCDPTB@nycourts.gov.**

ELECTRONIC FILING

1. All cases in IA Part 4/Commercial Division Part B are required to be electronically filed through the New York State Courts E-Filing (NYSCEF) system. Attorneys are expected to familiarize themselves with the NYSCEF procedures [Insert link](#)
2. All efiled documents must be text-searchable. All electronically-submitted memorandum of law must contain bookmarks, pursuant to Commercial Division Rule 6. The submission of documents containing hyperlinks is strongly encouraged.
3. Parties should consider converting a non-efiled matter to e-filing. To convert to e-filing, the parties must execute this form (Stipulation and Consent to E-filing Form) [Insert link](#) and send the fully executed form to efile@nycourts.gov, or, if any party does not consent to converting the matter to e-filing, any party may execute the Letter Application to Convert Pending Action to E-filing [Insert link](#)

INTEGRATED COURTROOM TECHNOLOGY (ICT)

Courtroom 66 is equipped with up-to-date Integrated Courtroom Technology (ICT). Attorneys and litigants are encouraged to familiarize themselves with the Courtroom Modernization Initiative (CMI) Courtroom instructions. Any attorney who intends to utilize the ICT equipment during a trial or hearing, **MUST** notify the Part Clerk at least fourteen (14) days prior to the trial or hearing, and should contact the Part Clerk to schedule a date and time to come in to the courtroom prior to the trial or hearing to test-run the equipment.

ADJOURNMENTS

All adjournments (motions, conferences, trials) require prior court approval. *EX PARTE* APPLICATIONS FOR ADJOURNMENTS WILL NOT BE CONSIDERED.

DISCOVERY DISPUTES

1. At this time, all conferences will be conducted virtually via Microsoft TEAMS.
2. Prior to filing a discovery-related motion, including but not limited to, Motions to Vacate the Note of Issue, Motions to Restore, Motions to Strike Pleadings, Motions to Demand Bill of Particulars, and Motions to Preclude, the parties are directed to send an email to QNSCDPTB@nycourts.gov (Commercial Division Cases only) or QSCPART4@nycourts.gov, and cc **ALL** parties to the email, to request a virtual conference. The email should include a summary of the discovery related issue(s).
3. If the parties are exploring settlement of the case and would like a settlement conference for the sole purpose of exploring resolution of the case, the parties may send an email to QNSCDPTB@nycourts.gov or QSCPART4@nycourts.gov with a cc to **ALL** parties to request a virtual settlement conference.
4. Only attorneys thoroughly familiar with the case may appear for a virtual conference. The attorneys should have on hand signed copies of all prior decisions, orders and stipulations that are relevant to the issue(s) to be discussed at the conference.

VIRTUAL CONFERENCES – GENERAL PROTOCOL

1. All lawyers and litigants should identify themselves at the beginning of each appearance.
2. All microphones should be muted when not in use.
3. Courtroom rules apply-speak one at a time and do not interrupt other speakers, including the Judge.
4. Recording the proceeding by anyone other than the Judge, Court Reporter or other Court personnel, is **PROHIBITED**.

5. All appearing parties should make every effort to appear via video, with cameras engaged. Telephonic appearances should be limited to litigants who are unable to appear via video.
6. Maintain the decorum of an in-person courtroom. Lawyers and litigants should appear in business attire from an office or quiet space. Background noise is detrimental to the conditions necessary to ensure an accurate transcript and diminishes the decorum of the proceeding.
7. If an individual is unable to appear via video, that individual should contact the Part **prior to the scheduled court** date at QNSCDPTB@nycourts.gov or QSCPART4@nycourts.gov.
8. If you would like to perform a test run of your equipment prior to any virtual conference hearing or trial, please contact <https://portal.nycourts.gov>.
9. For additional information regarding virtual appearances, please see the Virtual Appearance Guide at <https://nycourts.gov/appear>.

EMERGENCY/ESSENTIAL APPLICATIONS

1. Justice Grays is available for emergency applications. The application **must** be accompanied by a separate Emergency Affidavit.
2. When making an emergency application or Order to Show Cause application, the parties shall provide their email address(es) and direct telephone numbers of all parties by sending an email to QNSCDPTB@nycourts.gov (Commercial Division Cases only) or QSCPART4@nycourts.gov.

MOTION PRACTICE

1. Motion calendars for efiled motions are held virtually on a weekly basis. Motions shall be made returnable **Tuesdays, at 10:00 a.m.** The motion calendar is on **submission only. Appearance is not required, nor are working copies required.** The movant and/or cross-movant is/are required to submit a **Motion Submission Form by email to QNSCDPTB@nycourts.gov (Commercial Division cases only) or QSCPART4@nycourts.gov at least two(2) business days prior to the calendar date and time.**
2. Any requests for an adjournment **must be included on the Motion Submission Form.** Do not call Chambers or the Part to request an adjournment. Additionally, stipulations to adjourn a motion must be emailed with the Motion Submission Form to QNSCDPTB@nycourts.gov (Commercial Division Cases only) or QSCPART4@nycourts.gov prior to the calendared date and time. Applications for an adjournment will be granted as a matter of right for the first time. No further applications will be granted without permission of the Court. Counsel must make every effort to notify their adversaries of their intention to seek an adjournment.

3. Any request for oral argument and/or a conference, which will be held virtually, **must be indicated on the Motion Submission Form.**
4. Microsoft TEAMS is the only platform for conducting virtual court proceedings. The Unified Court System does not use Zoom to conduct virtual conferences.
5. Effective 3/27/23, NON-EFILED MOTIONS WILL BE CALENDERED FOR AN IN-PERSON APPEARANCE ON THE RETURN DATE AND ANY SUBSEQUENT ADJOURNED DATE. Parties should consider converting the matter to e-filing. To convert to e-filing, the parties must execute this form Stipulation and Consent to E-filing Form [Insert link](#) and send a fully executed form to efile@nycourts.gov.
6. **THE COURT WILL NOT CONSIDER PAPERS ELECTRONICALLY FILED AFTER THE CALL OF THE CALENDAR.**
7. No motion relating to disclosure will be accepted without an affirmation of good faith as required by 22 NYCRR §202.7.
8. Except for discovery motions, no prior permission is required before making a motion. Justice Grays does not accept Commercial Division Rule 24 letters unless expressly requested. Prior to making a discovery motion, parties must contact Chambers to arrange a mutually convenient date and time for a conference call.
9. **Commercial Division motions shall have the words “COMMERCIAL DIVISION” clearly and conspicuously marked on the Notice of Motion or Order to Show Cause by the moving party. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE MOTION BEING DENIED.**
10. Word limits specified in Commercial Division Rule 17 will be strictly enforced, unless permission to expand the word limits is granted in advance of the filing of the papers.
11. All Memorandum of Law must include a Table of Contents and a Table of Authorities.
12. Each exhibit to the motion papers must be efiled under its own document number and include a short label identifying the nature of the exhibit (e.g., Complaint, Contract dated 1/1/19, etc.).
13. **Any attorney appearing on a case for any purpose MUST be familiar with the case, and ready and authorized to resolve any and all issues.**

PAPERS

1. **WORKING COPIES ARE NOT REQUIRED. DO NOT EMAIL, FAX, OR MAIL WORKING COPIES TO CHAMBERS OR THE PART.**

2. If the Court directs that an Order be settled or submitted on a motion in an -filed case, the proposed Order and any proposed Counter-Order shall be filed via NYSCEF with the court with proof of service. As appropriate, the Clerk may make changes on the proposed Order/Counter-Order.
3. **FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN REJECTION OR DENIAL OF THE OFFENDING SUBMISSION OR THE SUBSTANTIAL DELAY IN PROCESSING THE SUBMITTED DOCUMENTS.**

ALTERNATIVE DISPUTE RESOLUTION (ADR)

1. If, at any point, the parties decide that they would benefit from the Commercial Division ADR program, they should write a joint letter to the Court asking to be referred to ADR.
2. The Court may also order parties to the Commercial Division ADR program without the parties' request or consent.
3. For more information regarding the ADR program, please contact Linda Dardis, ADR Coordinator, at ldardis@nycourts.gov or (718)298-1031, or visit: http://www.nycourts.gov/courts/comdiv/ny/ADR_overview.shtml.

CONFIDENTIALITY ORDER/SEALING DOCUMENTS

1. For Commercial Division cases, any Order regarding the confidential exchange of information must adhere to the proposed Stipulation and Order for the Production and Exchange of Confidential Information that appears in Appendix B to the Rules of Practice for the Commercial Division (22 NYCRR §202.70(g), Rule 11-g)².
2. If the parties wish to deviate from the form set forth in Appendix B to the Rules of Practice for the Commercial Division, they must do so in compliance with 22 NYCRR §202.70(g), Rule 11-g(b).
3. Applications to seal documents shall include the nature of the document, the reason for the sealing request, and "good cause" therefore (22 NYCRR §216.1). The Court will consider applications to seal documents only by Order to Show Cause or Notice of Motion, not by stipulation.

² Appendix B to the Rules of Practice for the Commercial Division is available at [https://www.nycourts.gov/LegacyPDFS/RULES/trialcourts/202.70\(g\)%20-%20Rule%2011-g%20\(attachment\).pdf](https://www.nycourts.gov/LegacyPDFS/RULES/trialcourts/202.70(g)%20-%20Rule%2011-g%20(attachment).pdf)

INFANT COMPROMISE ORDERS

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

TRIALS

1. Parties should consult e-Courts regularly for Commercial Division trial dates.
2. Each attorney or pro se litigant must submit to the court, via email at to QNSCDPTB@nycourts.gov, prior to the commencement of trial, the following:
 - (a) marked pleadings;
 - (b) all prior Decisions/Orders in the case;
 - (c) a witness list;
 - (d) an exhibit list;
 - (e) any Notice to Admit, with response(s);
 - (f) any Bill of Particulars.
3. Each party must notify the Clerk of the Part, at least **14 business days** prior to the commencement of the trial, if any proposed witness needs an interpreter, and if so, the language and any dialect.
4. It is the duty of counsel, not court personnel, to make sure all subpoenaed documents have arrived in the subpoenaed records room.
5. Motions in Limine (**non-Commercial Division non-Jury cases**) – On the first appearance in the Part for trial, any party intending to make a Motion in Limine shall submit, via email, a **brief** written affirmation setting forth the nature of the application and any supporting statutory or case law. The party/parties shall also provide counsel for all parties each with a copy.
6. The trial will be conducted on a continual daily basis until conclusion, unless other instructed by the Court.
7. **No adjournments or delays of the trial will be allowed unless exigent circumstances exist.**

VIRTUAL BENCH TRIALS

For Virtual Bench Trial Protocols and Procedures, please click this link: [Virtual Bench Trial Protocols and Procedures Manual](#) [Insert link](#)

SUMMARY BENCH TRIALS

For more information on Summary Bench Trials, please click this link: [Summary Bench Trials - 11 JD Queens Civil Supreme NYCOURTS.GOV](#) [Insert link](#)

COMMERCIAL DIVISION CASES

1. The Pre-Trial Conference calendar will be held virtually on **Mondays, at 10:00 a.m.**, or at such other time as the Court directs. You will receive a Microsoft TEAMS link prior to the Pre-Trial conference.
2. The parties shall comply with the relevant pre-trial conference and trial rules as required by 22 NYCRR §202.70, and **must supply the Court, at the time of the Pre-Trial Conference, with a copy of the marked pleadings via email to QNSCDPTB@nycourts.gov.**
3. Motions in Limine - Any party intending to make a motion in limine shall fully comply with Rule 27 of 22 NYCRR §202.70. **Motions in Limine which are not timely made will not be considered by the Court.**
4. Where a party is represented by counsel, an attorney fully familiar with the case **shall** appear virtually at the Pre-Trial Conference.

MANDATORY SETTLEMENT CONFERENCE

Pursuant to Rule 30 of section 202.70(g) of the Uniform Rules for the Supreme and County Courts (the Rules of Practice for the Commercial Division), unless specifically exempted by Justice Grays for good cause shown, the parties in every case pending in the Commercial Division Part B must participate in a court-ordered **Mandatory Settlement Conference (MSC)** following the filing of a Note of Issue.

Following the filing of the Note of Issue, the parties must confer and file a request for MSC pursuant to one of the four tracks. If all parties have agreed upon a settlement track that they prefer, they may file a joint request for said track. If the parties do not agree, they must file separate requests.

The four possible MSC tracks are:

- (A) A settlement conference before the assigned justice, or another judge pursuant to Commercial Division Rule 3(b).

- (B) The Court may refer the case to a Judicial Hearing Officer or Special Referee to conduct the MSC.
- (C) The Court may refer the case to the ADR Coordinator for assignment of a neutral under Part 146 of the Rules of the Chief Administrative Judge.
- (D) The parties agree to engage a private neutral.

The MSC shall be attended by persons with knowledge of the case and authority to settle.

Justice Grays shall retain ultimate authority with respect to the MSC.

DECISIONS

Any attorney or pro se litigant desiring a copy of the Court's decision must obtain same via NYSCEF or from the Queens County Clerk.

PRELIMINARY CONFERENCE–NON COMMERCIAL DIVISION CASES

1. A Preliminary Conference shall be scheduled (1) automatically by the Court within 45 days after filing a Request for Judicial Intervention, pursuant to 22 NYCRR §202.12(b); or (2) upon filing a written Request for a Preliminary Conference with the Clerk's Office, Room 140, in compliance with 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; or (4) in compliance with 22 NYCRR §202.70 - Rule 7 for Commercial Division cases.
2. Please click on the following link for information regarding the Preliminary Conference Part: http://www.nycourts.gov/courts/11jd/supreme/civilterm/civil_schedule.shtml **Insert link**

PRELIMINARY AND COMPLIANCE CONFERENCES – COMMERCIAL DIVISION

1. All Preliminary Conferences and Compliance Conferences will be held virtually and no appearance is required.
2. Counsel for all parties must consult prior to a Preliminary or Compliance Conference about: (i) the resolution of the case, in whole or in part; (ii) discovery and any other issues to be discussed at the conference; (iii) the use of Alternative Dispute Resolution to resolve all or some of the issues of the litigation; and (iv) any voluntary and informal exchange of information (Commercial Division Rule 8).
3. Commercial Division Preliminary and Compliance Conferences are to be conducted in the following manner until further notice:

- The parties shall obtain the Commercial Division Preliminary or Compliance Conference Order. [Insert links](#)
- **No appearance is required on the Preliminary or Compliance Conference date unless otherwise directed.**
- All fields of the Preliminary or Compliance Conference Order must be completed by the parties. All appearing parties shall participate in completing the Order.
- The completed Order must be signed by all parties.
- The completed and signed Preliminary or Compliance Conference Order shall be emailed to QNSCDPTB@nycourts.gov **no later than 2:00 p.m. on the scheduled date of the Preliminary or Compliance conference.**
- The parties should review the So Ordered Preliminary or Compliance Conference Order in the NYSCEF system for any changes made to the Order by the Court.
- In the event the parties can not agree in completing any of the fields on the Preliminary or Compliance Conference Order, plaintiff's counsel must email the Court (and include all parties on the email) at QNSCDPTB@nycourts.gov **no later than 2:00 p.m. on the scheduled date of the Preliminary or Compliance conference**, indicate that the parties need the assistance of the Court in completing the Preliminary or Compliance Conference Order, and request a virtual conference. A virtual conference on **Microsoft TEAMS** will be scheduled by the Court. **All parties must appear at the virtual conference** and possess full knowledge of the facts of the case and authority to resolve all issues.

SETTLEMENTS AND DISCONTINUANCES

Counsel **MUST** notify the Court as soon as practicable of the settlement or resolution of active cases or pending motions, by email to the court and to all parties at QSCPART4@nycourts.gov or QNSCDPTB@nycourts.gov. Counsel shall email a copy of the stipulation or a letter directed to the Clerk of the Part. All Stipulations of discontinuances must be accompanied by proof of payment of the appropriate fee (CPLR §8020(d)(1)).

[8/9/2023]