

Civil Term - Part Rules, Part 5, 32

Justice Lance Evans

25-10 Court Square

Long Island City, NY 11101

Principal Law Clerk: Nelson E. Timken, Esq.

Assistant Law Clerk: Manvinder Singh

Part Clerk: Linda Komorowski

Part 5 Contact Email: QSCPART5@nycourts.gov

Part 32 Contact Email: QSCPART32@nycourts.gov

IAS Motion Support Office (718) 298-1009

Ex Parte Support Office (718) 298-1018

Trial Scheduling Part (718) 298-1048

DCM Clerk's Office (718) 298-1140

Courtroom: (718) 298 – 1668

Chambers: (718) 298-1608

GENERAL

1. All questions regarding motions, adjournments, calendar calls, and scheduling should be made via email at QSCP32@NYcourts.gov or QSCP5@nycourts.gov and NOT to chambers. Adjournments must be requested by Motion Submission Form.
2. Please notify the Court, especially while a motion is pending before Justice Evans, if the action has been settled, discontinued, and if the motion has been resolved, by e-filing the disposition, and via email at QSCP32@nycourts.gov or QSCP5@nycourts.gov, and cc: to ALL parties to the action.
3. The parties are required to familiarize themselves with the new Uniform Civil Rules for the Supreme Court and the County Court. Please refer to this link: Uniform Civil Rules.
<http://ww2.nycourts.gov/rules/trialcourts/index.shtml>
4. Parts 32 and 5 are entirely electronic parts. Justice Evans does not accept working copies of motion/documents. Do not mail any courtesy copy of papers, as they will be discarded.
5. For the most up- to-date information concerning the handling of matters before the 11th judicial district Civil Term (Queens Supreme Court), please refer to:
<http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/index.shtml>

Communications with Chambers

1. Counsel or litigants (represented or self-represented) are advised that Justice Evans, his Principal Law Clerk, Assistant Law Clerk, and Part Clerk may not engage in any *ex parte* communications.
2. Absolutely no telephone inquiries concerning motions or applications may be made to chambers. Such inquiries or concerns must be addressed to the Part Clerk at (718) 298 – 1668 or via email at QSCPart32@nycourts.gov.
3. Do not send any letters, documents, papers, mail, or facsimile unless expressly permitted by these Practice Rules or by prior approval of the Court to the part or chambers.
4. Any and all communications with Chambers shall include all parties.

Motions

Effective July 20, 2020, motion calendars for e-filed motions have resumed virtually on a weekly basis. Attorneys are expected to familiarize themselves with NYSCEF procedures at <http://iapps.courts.state.ny.us/nyscef/Login>. For more information on e-filing rules, parties may also visit: <http://www.nycourts.gov/courts/1jd/supctmanh/efiling.shtml>.

The motion calendars will be on **submission only**. **Appearance is not required, nor are working copies required**. The movant and/or cross-movant will be required to submit a **Motion Submission Form** at least **(2) two business days** prior to the calendared date and time, to the applicable contact email address. The **Motion Submission Form** can be obtained from the court's website, at https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/motion_submission_form.pdf

Any requests for an adjournment must be included on the **Motion Submission Form** and must be **e-filed (listed above)**. Motions without Motion Submission Forms May **NOT** be considered. Motion Submission Forms need not be e-mailed to us.

Any requests for oral argument, which will be held virtually, must be indicated on the **Motion Submission Form**. It is within the discretion of the Judge whether oral argument shall be granted. You will be notified if argument is granted. **Please note that Teams is the only platform which can be used for virtual oral argument.**

Please do not call the Judge's chambers to request an adjournment. Additionally, as a reminder, please remember to e-file all stipulations. The moving party will be responsible for ascertaining the new motion date

and notifying all parties entitled to notice. Parties should check e-courts for the new date of any motions that may have been adjourned. The Court may administratively reschedule any application or motion noticed for a holiday or a day on which the Part is closed. Should the Part administratively reschedule, 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 adjournment date. E-courts is updated on a continuous basis. The Court will update its web page (www.nycourts.gov) with additional information as it becomes available. For specific questions, please call (718) 298-1140.

Form of Motions:

Motion papers shall be **concise without redundancy**. Affirmations and affidavits **shall not exceed twenty (20) pages double-spaced**, 12-point type. Reply papers shall be responsive to opposition and shall not reiterate arguments previously espoused in motion papers.

All motions shall be accompanied by a proposed Order, or, where applicable, a proposed Judgment. Proposed judgments must conform to the Queens County Foreclosure & Sale Judgment Template, available at <https://www.nycourts.gov/LegacyPDFS/courts/11jd/supreme/civilterm/foreclosuresalejudgement.pdf>

The Court does not accept sur-replies unless specifically requested by the Court.

Motions to renew and/or reargue shall contain a copy of the court's original decision and copies of all papers submitted in support of the original motion.

Discovery Motions:

Pursuant to the new Uniform Rules for Supreme Courts, discovery disputes should be resolved by counsel through informal procedures, such as conferences, as opposed to motion practice. (NY Ct. Rules, 202.20 – f [a]). Absent exigent circumstances, prior to contacting the court regarding a disclosure dispute, counsel must first consult with one another in a good faith effort to resolve all disputes about disclosure. Such consultation must take place by an in – person or telephonic conference, or virtually. In the event that the discovery dispute cannot be resolved other than through motion practice, each such discovery motion shall be supported by an affidavit or affirmation from counsel attesting to counsel having conducted an in – person or telephonic, conference, setting forth the date and time of such conference, persons participating, the length of time of the conference, and the documented request that was made to have a conference before the Compliance Conference Part Judge . The unreasonable failure or refusal of counsel to participate in a conference requested by another party may relieve the requesting party of the obligation to comply with this paragraph and may be addressed by the imposition of sanctions pursuant to Part 130. If the moving party was unable to conduct a conference due to the unreasonable failure or refusal of an adverse party to participate, then such moving party shall, in an affidavit or affirmation, detail the efforts made by the moving party to obtain such a conference and set forth the responses received. The failure of counsel to comply with this rule may result in the denial of a discovery motion, without prejudice to renewal once the provisions of this rule

have been complied, or in such motion being held in abeyance until the informal resolution procedures of the court are conducted. (Uniform Rules, 202.20 – f [b – c]).

All stipulations resolving discovery motions must indicate that the motion, and any cross-motions, is/are being withdrawn pursuant to the stipulation and must be signed by all attorneys or parties appearing at the calendar call. Any items of discovery not specifically identified as outstanding at the time of the stipulation resolving the motion may be deemed waived.

Motions for Summary Judgment in foreclosure actions shall not stay disclosure (cf. CPLR 3214 [b]).

Status of Decisions

Decisions or Orders can be retrieved on-line or at the Queens County Clerk's office located in the Jamaica courthouse, Room 106. Further inquiries should be directed to the Foreclosure Support Office at 718-2981092, the Motion Support Office at 718-298-1009, or Ex-Parte Support Office 718-298-1018.

Status Conferences and Settlement Conferences

Status conferences and settlement conferences can be requested by emailing the correct Part at QSCPart32@NYcourts.gov or QSCPart5@nycourts.gov. It is within the discretion of the Judge whether a conference is granted. You will be notified if you have been granted a conference with the Judge. Conferences will be held through the Microsoft Teams platform. All attorneys and pro se litigants should familiarize themselves with Microsoft Teams. Please make sure to double check all necessary links and verify that you have a strong internet connection that can support video conferences through Microsoft Teams.

Alternative Dispute Resolution (ADR)

The court strongly favors the use of ADR (i.e., mediation, neutral evaluation) to resolve pending matters. Upon request by all parties via email to the appropriate email address (QSCPart32@NYcourts.gov or QSCPart5@nycourts.gov), and in the discretion of the Judge, the Court will contact the ADR Coordinator of Queens County to refer the matter to ADR. The Court may also direct parties to the ADR program without the parties' request or consent. Use of the ADR program does not stay discovery during the mediation process. For more information regarding the ADR program, please visit:

<http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/adr/index.shtml>.

Trials

Pre-trial conferences will be held prior to the commencement of every trial. At this conference, counsel for the parties should be prepared to:

- Negotiate, and if possible, enter into a settlement of the action;
- Advise the Court as to any anticipated disputes of law and fact, and provide the Court with copies of all statutory or caselaw authority upon which they intend to rely;
- Draft a joint pretrial order which shall include:
 - Undisputed facts and the admissibility of any documents and/or records;
 - Anticipated motions *in limine* which counsel intends to make;
 - Scheduling and availability of witnesses and subpoenaed documents; and
 - Any anticipated problems regarding the attendance at trial of parties, attorneys, or essential witnesses, as well as any other scheduling issues.

Prior to the commencement of trial, counsel must submit to the Court by overnight, to the correct part contact email, the following documents:

- Marked Pleadings
- Bill of Particulars
- Witness List (including availability of witnesses)
- Exhibit List (pre-marked for identifications).

Trials, once commenced, shall continue day-to-day until concluded. No adjournments will be granted during trial except under exigent circumstances, in the Court's discretion. It is incumbent upon trial counsel to marshal their evidence prior to the commencement of trial.

Motions *in limine* should be made in writing, and submitted by email, to the correct part email box, one day before trial. Parties may support such motions by a concise (1-3 page) written Memorandum of Law to be submitted to the Court and provided to opposing counsel, as well as copies of any cases cited and the pages of any treatises cited therein. All prior decisions and orders relevant to a motion *in limine* must be provided to the Court.

Counsel must advise the Court of any logistical concerns or subpoenaed material in advance of the trial date, so as not to delay the trial. **Requests for interpreters must be made to the Court, Part Clerk, and Judge's court attorney immediately upon assignment of the case to the Part.** Counsel shall pre-mark all trial exhibits.

Stays, Withdrawals, Settlements and Discontinuances

The parties shall notify the Court immediately, in writing, of any stays imposed or lifted, other than stays enacted by the Administrative Orders 157.20, 231.20 and 341.20.

The movant shall notify the Court immediately, in writing, of the withdrawal of any pending motion or application. All cases that had been stayed due to the filing of Hardship Declaration should be immediately restored to the active conference and motion calendars. (See A.O. 35/22.)

If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately e-file it. All Stipulations of Discontinuance must be accompanied by proof of payment of the appropriate fee.

Infant Compromise Orders (ICOs)

Applications for Infant Compromise Orders shall be made pursuant to CPLR §1207(a) and shall be supported by the documentation required under CPLR §1208 and 22 NYCRR §202.67. Infant compromise hearings will be scheduled by the Court and the parties will be notified of their hearing date by email. All counsel desiring the checklist for documents and information that must be submitted, should get the checklist and the link for the PDF which is contained herein:

<https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/infantcompromiseorder.pdf>

Preliminary Conferences and Compliance Conferences

The court takes Preliminary and Compliance Conference Orders seriously, and expects parties to conduct the discovery scheduled and further actions undertaken by the parties, without failure. Effective Feb. 7, 2022, Compliance Conference orders will be automatically generated. Consult the "Part Rules" section of the Queens Supreme Court Civil Term webpage for further information.

