

Civil Term - Part Rules Part 10
Courtroom 63
Justice Kevin J. Kerrigan
88-11 Sutphin Blvd.
Jamaica, NY 11435
Courtroom Ph: (718) 298-1213
Part 10 e-mail address: QSCPart10@nycourts.gov

PURSUANT TO THE NEW PROCEDURES GOVERNING COURT OPERATIONS IMPLEMENTED TO ADDRESS THE COVID-19 (CORONAVIRUS) HEALTH EMERGENCY, AND PURSUANT TO THE MOST RECENT ADMINISTRATIVE DIRECTIVES CONCERNING DISCOVERY MATTERS, THE FOLLOWING PART RULES, WHICH SUPERSEDE ALL PREVIOUS PART RULES, SHALL APPLY TO ALL PART 10 MATTERS:

NO TELEPHONE INQUIRIES CONCERNING MOTIONS OR APPLICATIONS SHALL BE MADE TO CHAMBERS. All such inquiries must be made to the Motion Support Office (718-298-1009), the Ex Parte Office (718-298-1018) or to the Clerk of Part 10 at 718-298-1213 or by e-mail at QSCPart10@nycourts.gov .

NO CORRESPONDENCE OR PAPERS SHALL BE MAILED TO CHAMBERS FOR ANY REASON WHATSOEVER. ANY SUCH CORRESPONDENCE OR PAPERS WILL NOT BE READ OR OPENED BUT WILL BE DISCARDED.

Any communication to chambers shall be by e-mail only and may not be made ex-parte, but shall include all parties and may only be made upon prior approval of the Court by seeking permission to do so by contacting Part 10 at 718-298-1213 or by e-mail at QSCPart10@nycourts.gov. If the action or petition has been settled and/or discontinued, or the motion or application has been resolved, please inform Part 10 via e-mail at QSCPart10@nycourts.gov and e-file a copy of a stipulation of discontinuance and/or settlement under cover letter, directed to the Clerk of Part 10. If a case has been stayed, either by operation of law or by an order of a court, the movant shall immediately inform the Clerk of Part 10 of such stay via e-mail. Except for the noted exceptions, any unsolicited e-mail correspondence to chambers will be disregarded.

Documents requiring the signature of Justice Kerrigan, including proposed orders and stipulations to be so-ordered must be e-filed and sent by e-mail to QSCPart10@nycourts.gov.

ELECTRONIC FILING

All cases in Part 10 **MUST** be filed electronically through the New York State Courts E-Filing (NYSCEF) system, including all motions, petitions and applications. Attorneys are required to be

familiar with the NYSCEF procedures and rules which may be accessed at <http://iapps.courts.state.ny.us/nyscef/Login> and <http://www.nycourts.gov/courts/1jd/supctmanh/e-filing.shtml>. Part 10 recommends that all matters that have already been filed traditionally and are not e-file cases be converted to e-file, and that all papers and exhibits for pending motions and applications are to be e-filed, together with all future papers, to E-Courts under the new e-file Index Number assigned to the case.

Proof of service on all motions/applications must be electronically filed in NYSCEF (see Uniform Rules 202.5-b(f)ii).

Parties and/or their attorneys are required to register for “eTrack” service for all Part 10 cases by visiting <http://iapps.courts.state.ny.us/webcivil/etrackLogin>. Part 10 does not notify litigants of upcoming appearances.

MOTIONS AND PETITIONS

AS OF APRIL 25, 2022, NON E-FILED CASES WILL NO LONGER BE ADMINISTRATIVELY ADJOURNED AND LITIGANTS ON NONE-FILED CASES WILL BE REQUIRED TO SUBMIT THEIR PAPERS TO PART 10 FOR DISPOSITION.

All motions and petitions shall be made returnable in Part 10 of this Courthouse on Mondays at 9:30 a.m. **For both e-filed and non e-filed cases, the calendars in Part 10 remain submission only.** There shall be no oral argument of any motion, petition or application, with the exception of motions/orders to show cause for a preliminary injunction containing a temporary restraining order, in which case a hearing shall be conducted virtually via Teams conference.

Non e-filed cases on the Part 10 calendar are required to appear with their moving papers at the call of the calendar in Courtroom 63, 88-11 Sutphin Boulevard, Jamaica, at 9:30 a.m., sharp. Second call is at 10:30 a.m. All opposition and reply papers must be delivered to Part 10 by the calling of the calendar. Requests for an adjournment must be submitted to Part 10 by e-mail to QSCPART10@nycourts.gov, and may be done either by stipulation of the parties, or by completing a motion submission form accessed at: https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/motion_submission_form.pdf. Failure to appear, without either a stipulation or motion submission form submitted to Part 10 will result in the matter being marked off the calendar.

For all e-filed cases, the following rules remain in effect: The movant/cross-movant or petitioner must complete and e-mail a motion submission form to QSCPART10@nycourts.gov no later than 48 business hours prior to 9:30 a.m. of the calendar date of the motion, petition or application. Motion submission forms may be accessed by visiting https://www.nycourts.gov/LegacyPDFS/COURTS/11jd/supreme/civilterm/motion_submission_form.pdf. **Absolutely no motion submission forms will be accepted after 9:15 am on the calendar date.**

The motion submission form is mandatory and must be received by Part 10 within the

aforementioned time frame or it will not be considered. The motion submission form is the equivalent of an appearance by the movant, petitioner or applicant. **Failure to file a motion submission form shall result in the motion/cross-motion, petition or application being marked “off-calendar, no appearance movant”.** With regard to adjourned matters, movants/crossmovants must submit a new motion submission form each time the matter is on the calendar. Please note that an “off-calendar” marking is not a denial of the motion or application but is merely a clerical disposition. The effect of a motion or application being marked off-calendar is that the motion or application is deemed never to have been made, the significance of which is that the movant or petitioner will have to file and serve a new notice of motion, order to show cause or notice of petition, with a new set of supporting papers, and the filing of the original application that was marked off will not toll any applicable periods of limitation or deadlines. Consequently, there is no cognizable grounds under the CPLR for reargument or renewal of a matter that was marked off-calendar or for restoration to the motion calendar of the matter that was marked off, and any motions made under such grounds will be denied outright.

All opposition must be submitted within the designated 48-hour time frame or will not be considered. No opposition will be accepted unless there is sufficient time for opposing counsel to reply.

Requests within the motion submission form for a virtual conference will only be allowed upon this Court’s discretion after the submission of the motion/application.

All requests for adjournment must be set forth in either a motion submission form or, in the alternative, by way of a stipulation or letter that is both e-filed and e-mailed to QSCPart10@nycourts.gov . Adjournments shall only be granted at the sole discretion of the Court, even if all parties have agreed to said adjournment.

All stipulations and/or communications, withdrawing and/or resolving matters scheduled on the Part 10 calendar must be both e-filed and e-mailed to QSCPart10@nycourts.gov .

MOTIONS TO BE RELIEVED AS COUNSEL FOR A PARTY

Every motion by an attorney to be relieved as counsel for a party must either set forth in the affirmation in support of the motion the reason why counsel is moving to be relieved, or, if disclosing the reason therefor in the affirmation in support of the order to show cause would divulge a client confidence and, for that reason, is not disclosed in the affirmation, either set forth the sections of the Rules of Professional Conduct that are applicable and/or e-mail to QSCPart10@nycourts.gov at the time of the calling of the calendar a confidential written statement for this Court’s review, and which will not be part of the Court record, setting forth the reason why counsel wishes to be relieved as counsel. Any motion to be relieved as counsel which is not in compliance with these requirements will be denied without prejudice.

PRELIMINARY CONFERENCES (“PC” CONFERENCES)

All of Justice Kerrigan's cases involving the City of New York will have a Case Scheduling Order (a/k/a "PC Order") generated automatically and transmitted to the County Clerk of Queens County. No action will be required of the parties on the PC date. The Case Scheduling order (PC order) will contain an assigned date for a Compliance Conference in the Compliance Conference Part, Courtroom 313.

COMPLIANCE CONFERENCES ("CC" CONFERENCES)

Except with respect to cases involving the New York City Health and Hospitals Corporation, compliance conferences on all New York City cases assigned to Justice Kerrigan will be handled in the Compliance Conference Part, Courtroom 313. Any inquiry pertaining to a Compliance Conference shall be made to the Compliance Conference Part at 718-298-1093.

SPECIAL RULES FOR CASES INVOLVING THE NEW YORK CITY HEALTH & HOSPITALS CORPORATION (HHC)

All **Preliminary Conferences** in Medical Malpractice cases involving HHC shall be completed by the parties. The parties shall use the Medical Malpractice Preliminary Conference Form found on the E-Courts Home Page. The completed form must be e-mailed to QSCPart10@nycourts.gov the day prior to the PC date or no later than 11:00 a.m. on the PC date. Please leave the Compliance Conference and Note of Issue dates blank on the form for the Court to determine. Completed forms shall be e-mailed to the County Clerk of Queens County and dates for a Compliance Conference and Note of Issue shall be assigned.

All **Compliance Conferences** in Medical Malpractice cases involving the New York City Health and Hospitals Corporation shall be completed by the parties. The parties shall use the Medical Malpractice Compliance Conference Form found on the E-Courts Home Page. The completed form must be e-mailed to QSCPart10@nycourts.gov no earlier than the day prior to the Compliance Conference date or no later than 11:00 a.m. on the Compliance Conference date. There is no appearance on the Compliance Conference date. Please leave the Note of Issue and Pre-Trial Conference dates blank on the form for the Court to determine. Completed forms shall be e-mailed to the Clerk of Queens County and Note of Issue and Pre-Trial Conference dates shall be assigned.

DISCOVERY MOTIONS

No discovery-related motion shall be made prior to the compliance conference or the filing of the Note of Issue. Any such motion will be denied outright.

If disputes arise regarding compliance with a Compliance Conference Order, the parties shall promptly confer in good faith in an effort to resolve those disputes. If that effort falls, the parties or any party aggrieved shall, in advance of deadlines and prior to initiating motion practice, bring the dispute to the attention of the Compliance Settlement and Conference Part and schedule, forthwith in the Compliance Settlement and Conference Part, a conference to resolve the dispute.

No motion seeking to vacate the note of issue and /or strike the action from the trial calendar shall be made if the case has been assigned to the Trial Scheduling Part. Any such motion made after the case has been assigned to the Trial Scheduling Part must be addressed in the Trial Scheduling Part on the date of the Pre-Trial Conference or any adjourn date of the Pre-Trial Conference. Any motion made that is in violation of this rule will be denied outright.

If the Note of Issue has been vacated, either by order of Justice Kerrigan or of the Justice of the Trial Scheduling Part, upon the ground that significant discovery is outstanding, and the order vacating the note of issue does not set forth a new note of issue date, then upon completion of all discovery, the parties shall stipulate that all discovery is complete and the case is ready to be placed on the trial calendar and set forth in the stipulation a new note of issue date, which shall be a date certain that is a Friday, and e-mail the stipulation, executed by counsel for all parties, to QSCPart10@nycourts.gov . The stipulation will be so-ordered and e-filed. The plaintiff's counsel shall be responsible for drafting the stipulation and transmitting it to counsel for all parties. Upon the filing of the note of issue, a new pre-trial conference date in the Trial Scheduling Part will be scheduled clerically in due course. The foregoing stipulation is **mandatory**.

A motion for leave to file a new note of issue and for restoration to the trial calendar shall not be made, except in the event an attorney for a party refuses to stipulate to completion of discovery and to a new note of issue date. In such event, the plaintiff's counsel shall, in counsel's affirmation in support of the motion, set forth **in detail** the circumstances that necessitated the motion, including an account of defendants' counsel's refusal to sign the stipulation, and shall include as an exhibit a copy of the proposed stipulation drafted by counsel with proof of transmittal to opposing counsel. The failure of plaintiff's counsel to set forth a sufficiently detailed explanation of why a stipulation could not be submitted and why the motion was necessary will result in the denial of the motion. Defendants' counsel's affirmation in opposition shall set forth a **detailed** explanation of why counsel did not sign the stipulation.

THE FAILURE OF DEFENDANTS' COUNSEL TO SIGN SUCH STIPULATION, ABSENT SUFFICIENT CAUSE SET FORTH, MAY RESULT IN THE IMPOSITION OF SANCTIONS AGAINST THE NON-COMPLIANT ATTORNEY.

All discovery-related motions are expected to be resolved by stipulation of counsel for the respective parties and not be submitted. A discovery-related motion must be supported by an Affirmation of Good Faith in which counsel for the movant must set forth a **detailed** account of the specific efforts made to resolve the outstanding discovery issues. A general representation that good faith efforts were made, with no specifics, is insufficient. The failure to support the motion with an adequate Good Faith Affirmation will result in the denial of the motion.

FORECLOSURE MOTIONS AND STATUS/SETTLEMENT CONFERENCES

In light of Administrative Order AO/341/20 of the Chief Administrative Judge of the Courts, and the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (L. 2020, c. 381), staying all residential foreclosure actions pending on December 28, 2020 and commenced on or

before January 27, 2021 for 60 days, except where a mortgagor submits a hardship declaration, in which case the action is stayed until at least May 1, 2021, Part 10 is not scheduling any foreclosure status/settlement conferences at this time. Upon the expiration of the stay currently in effect, and any extensions that may be issued pursuant to further Executive Orders, Part 10 will resume conducting foreclosure status/ settlement conferences pursuant to Administrative Order AO /157/20, under which the plaintiff-mortgagee's attorney will be required to complete and submit to Part 10 the Foreclosure Status/Settlement Conference Form, and after submission of the form, the parties will be contacted by Part 10 or the Court Attorney/Referee to whom the action has been assigned for a conference date.

TRIALS

All counsel must submit to the Court, prior to the commencement of trial, a copy of the bill of particulars and any supplemental bill of particulars.

Motions in Limine - On the first appearance in Part 10 for trial, any party intending to make a motion in limine shall submit a brief written affirmation setting forth the nature of the application and any supporting statutory or case law. The party shall furnish the court with an original and one copy and provide counsel for all parties with a copy. The trial will be conducted on a continual daily basis until conclusion. No adjournments or delays during trial will be accepted unless exigent circumstances arise.