

## Civil Term - Part 12, Courtroom 42

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Justice Denis J. Butler  
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Jamaica NY 11435

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### **GENERAL**

These Part Rules have been amended to address procedural changes in court operations due to COVID-19 (coronavirus). All parties and counsel must familiarize themselves with the Part 12 Rules and should check these Rules regularly for changes.

**To ensure public safety and the safety of court personnel, Part 12 is now entirely paperless.** Working copies of e-filed motions and related documents are not accepted, unless the court requests them.

No telephone inquiries concerning motions or applications shall be made to Chambers. All such inquiries or concerns shall be addressed to the Part Clerk at (718) 298-1121 or via email at [QSCPart12@nycourts.gov](mailto:QSCPart12@nycourts.gov). Do not send any letters, documents, papers, mail, or facsimile, without prior court approval.

**All correspondence to Chambers shall be by e-mail only and between the hours of 9:00 a.m. to 5:00 p.m. Unsolicited e-mails shall be permitted only with respects to settlements, discontinuances, withdrawals of motions, adjournments and stays. E-mails received outside the hours of 9:00 a.m. to 5:00 p.m. and, except for the noted exceptions, unsolicited e-mails will be disregarded.**

If a matter is settled, discontinued or otherwise disposed of, the movant shall immediately e-file a copy of the stipulation of discontinuance and/or settlement under cover letter withdrawing the pending motion or application, directed to the Part Clerk. If a case has been stayed, either by operation of law or by an order of a court, the movant shall immediately inform the Part Clerk.

A copy of a signed or declined order to show cause will be e-mailed to counsel. It is the responsibility of counsel bringing the order to show cause to provide an e-mail address. **Where**

**practicable, the Part clerk shall be notified at least twenty-four hours in advance of any emergency application that is to be presented for signature.**

For the most up-to-date information concerning the handling of matters before the 11<sup>th</sup> Judicial District Civil Term (Queens Supreme Court), please refer to:

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

### **MOTION PRACTICE**

All motions shall be made returnable in Part 12, Courtroom 42, on Tuesdays, at 9:30 a.m. Failure to notice a motion in compliance with the designated day, time and location above may result in the motion being marked off without prejudice.

The motion calendars are submission only, and no physical appearance is permitted on the return date due to COVID-19 safety concerns. There shall be no oral argument of any motion, petition or application, unless the court directs otherwise, in which case a conference shall be held virtually via Microsoft Teams. All motions, petitions and applications must be e-filed. All matters that are not e-filed will be administratively adjourned until further notice, or until the parties convert the case to an e-file matter.

A movant must submit a motion submission form via email to [QSCPart12@nycourts.gov](mailto:QSCPart12@nycourts.gov) no earlier than one week before and no later than 48 business hours prior to the return date (**the preceding Friday at 9:30 a.m. is the deadline to submit a timely motion submission form**). The motion submission form is mandatory, and failure to submit a timely motion submission form may result in the motion being marked off without prejudice. The motion submission form is the equivalent of an appearance by the movant. A movant shall notify the court of any withdrawal in writing, which shall be e-filed prior to the submission date.

If an adjournment on consent is requested, parties must indicate such on the motion submission form, and submit it to the court with an attached stipulation of adjournment. If an adjournment is requested and is not on consent, the motion submission form should indicate same. If the motion is adjourned, a new motion submission form is required prior to the new return date in accordance with the above time frame.

No discovery motions shall be made prior to the holding of both a Preliminary Conference and Compliance Conference, and proof that such conferences were held shall be attached to the motion. No discovery-related motion shall be made prematurely or without an affirmation of good faith that fully meets the requirements of 22 NYCRR § 202.7. All discovery-related motions are expected to be resolved by stipulation of counsel for the respective parties and not be submitted.

No motion to vacate the note of issue and strike the action from the trial calendar shall be made if the case has been assigned to the Trial Scheduling Part. Any request to vacate the note of issue or strike the action from the trial calendar where the case has been assigned to the Trial Scheduling Part must be made by oral application to the Trial Scheduling Part Judge on the scheduled conference date in that Part. Any motion made in violation of this rule will be denied, without prejudice.

All motions and ex-parte applications shall comply with 22 NYCRR § 202.5. All e-filed motions and ex-parte applications shall comply with 22 NYCRR §§ 202.5-b or 202.5-bb, as applicable. Parties and counsel shall not submit a working copy of e-filed papers.

All e-filed documents must be text searchable. Each exhibit must be e-filed under its own document number and include a short label identifying the nature of the exhibit (e.g., Complaint, Police Accident Report, Examination Before Trial of Jane Doe, Affidavit of Service, etc.). E-filed documents must contain page numbers and numbered paragraphs. Failure to comply with the requirements of this section may result in denial of the motion, without prejudice.

Calls regarding the status of a motion or application decision will not be entertained. Decisions or orders can be retrieved online or at the County Clerk's office located in the Jamaica courthouse, Room 106.

### **PRELIMINARY CONFERENCES**

Preliminary conferences will be held on Thursdays at 9:30 a.m. in the Preliminary Conference Part, Room 314 of the Jamaica Courthouse located at 88-11 Sutphin Blvd., 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**

Compliance conferences will be held in the Compliance Conference Part in Room 3002 at the Jamaica Courthouse on the date scheduled in the Preliminary Conference Order. Any inquiry pertaining to compliance conferences shall be made to the Compliance Conference Part at (718) 298-1093.

### **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.

### **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 rejection memorandum or the action may be dismissed as abandoned. All revisions are to be submitted, by hand, to the Part Clerk.

## TRIALS

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.

Plaintiff's counsel shall requisition all subpoenaed records to the Part 12 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 Court Officer, in advance, so as not to delay the progress of the trial.

Pre-trial conferences will be held prior to every trial. At these conferences counsel should be prepared to fully participate in discussion of the matters set forth in 22 NYCRR 202.26. Counsel should alert the court, at the pre-trial conference, 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.

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. 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 highlighted. Citations to appropriate statutory or common law authority must be given in support of proposed non-PJI jury charges or proposed PJI modifications. Amendments to the proposed jury instructions and the proposed verdict sheet shall be permitted prior to the final charge conference.

On the first appearance in the Part 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. Oral requests and late requests will not be entertained and will be deemed waived.

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.

The parties must be present for settlement or discontinuance of any case on trial, whereupon there shall be a complete allocution of the plaintiff.