

Civil Term - Part Rules Part 12
Courtroom 42 Justice
Denis J. Butler 88-11
Sutphin Blvd.
Jamaica, NY 11435
Courtroom Ph: (718) 298-1121
Part 12 e-mail address: QSCPart12@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 12 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 12 at 718-298-1121 or by e-mail at QSCPart12@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 12 at 718-298-1121 or by e-mail at QSCPart12@nycourts.gov. If the action or petition has been settled and/or discontinued, or the motion or application has been resolved, please inform Part 12 via e-mail at QSCPart12@nycourts.gov and e-file a copy of a stipulation of discontinuance and/or settlement under cover letter, directed to the Clerk of Part 12. 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 12 of such stay via e-mail. Except for the noted exceptions, any unsolicited e-mail correspondence to chambers will be disregarded.

Individual Court Parts **do not** receive notifications when E-filed papers are entered into the Queens County Clerk - NYSCEF system.

Documents requiring the signature of Justice Butler, including proposed orders and stipulations to be so-ordered must be e-filed and sent by e-mail to QSCPart12@nycourts.gov

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.

COMMUNICATIONS WITH PART 12 AND CHAMBERS

1. Counsel and litigants (represented or self-represented) are advised that Justice Denis J. Butler, his/her Principal Law Clerk, Chambers Secretary, 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 shall be addressed via email at QSCPart12@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.**

ELECTRONIC FILING

All cases in Part 12 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 Part 12 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 12 cases by visiting <http://iapps.courts.state.ny.us/webcivil/etrackLogin>. Part 12 does not notify litigants of upcoming appearances.

MOTIONS AND PETITIONS

LITIGANTS ON NON E-FILED CASES WILL BE REQUIRED TO SUBMIT THEIR PAPERS TO PART 12 FOR DISPOSITION.

All motions and petitions shall be made returnable in Part 12 of this Courthouse on Tuesdays at 9:30 a.m. **For both e-filed and non e-filed cases, the calendars in Part 12 remain submission only.** There shall be **no in person** 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 may be conducted virtually via Teams conference.

Non e-filed cases on the Part 12 calendar are required to appear with their moving papers at the call of the calendar in Courtroom 42, 88-11 Sutphin Boulevard, Jamaica, promptly at 9:30 a.m. All opposition and reply papers must be delivered to Part 12 by the call of the calendar. Requests for an adjournment must be submitted to Part 12 by e-mail to QSCPart12@nycourts.gov, and may be done either by stipulation of the parties, or by completing a motion submission form accessed at: Microsoft Word - Mot Submission with title complete (nycourts.gov)

Effective September 26, 2022, failure to timely submit a motion submission form to Part 12 shall result in the matter being marked “off-calendar, no appearance movant.”

For **all e-filed cases**, the movant/cross-movant or petitioner must complete and e-mail a motion submission form to QSCPart12@nycourts.gov no later than 48 business hours prior to 9:30 a.m. of the calendar date of the motion, petition or application. **(the preceding Friday at 9:30 a.m. is the deadline to submit a timely motion submission form).** Motion submission forms may be accessed by visiting Microsoft Word - Mot Submission with title complete (nycourts.gov)

The motion submission form is mandatory and must be received by Part 12 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. **Effective September 26, 2022, failure to timely 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/cross-movants 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 an 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 QSCPart12@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 12 calendar must be both e-filed and e-mailed to QSCPart12@nycourts.gov.

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 submitted with 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 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 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 addressed to the Trial Scheduling Part on the scheduled 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 shall 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 and COMPLIANCE CONFERENCES

Please click on the following links:
for information regarding the Preliminary Conference Part and Compliance Conference Parts.

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.

Alternative Dispute Resolution (“ADR”)

The Court encourages the use of Alternative Dispute Resolution (“ADR”). The Court’s ADR Coordinator is Linda Dardis, Esq. To pursue ADR, you may contact Ms. Dardis at: the email of gscadr@nycourts.gov, or visit <http://ww2.nycourts.gov/courts/11jd/supreme/civilterm/adr/index.shtml>

[09/07/2022]