

**QUEENS COUNTY SUPREME COURT, CIVIL TERM
RULES OF THE COURT
PRELIMINARY CONFERENCE ("PC") PART**

Hon. Mojgan C. Lancman

Preliminary Conference Part Tel. No.: 718.298.1046; E-Mail: Queenspc@nycourts.gov

I. Preliminary Conference Part Rules

- a. Preliminary Conference Orders (hereinafter "PC Orders") shall be issued *sua sponte* by the Court, in all cases not assigned to a specialized part, upon the filing of a Request for Judicial Intervention, a Request for a Preliminary Conference and/or a discovery motion. The parties shall be responsible for following eCourts for notice of the issuance of a Preliminary Conference Order and retrieving same from the County Clerk/NYSCEF files and to follow its directives accordingly.
- b. Any issues regarding a PC Order that was issued by the Court shall be addressed to the email address provided above: Queenspc@nycourts.gov.
- c. Any party who wishes to request a conference with the Court after the PC Order is issued may do so by emailing the part address indicated above. The request must specify the reason for the request; for example: the case belongs in a different part for PC purposes; etc. Any request for a settlement conference or a discovery dispute should be made to the Compliance Conference Part by emailing cscp@nycourts.gov.
- d. In cases where the City of New York is a defendant a Case Scheduling Order will be issued with its own Differentiated Case Management prerogatives.
- e. All PCs and CCs in Commercial Division and Medical Malpractice cases shall be held before the assigned Commercial Division or Medical Malpractice Justices.
- f. Any Request for a PC filed by the plaintiff shall state the date the Bill of Particulars (the "BP") was served, if one has been demanded. If a BP has not been served before the Preliminary Conference Order is issued the PC Order will direct one to be served forthwith. The failure to serve a BP in compliance with a PC Order shall result in an order imposing costs or other sanctions upon the offending party pursuant section 130.2.1 of the Rules of the Chief Administrator, 22 NYCRR 202.27, or any other applicable rule or statute.
- g. Medical Authorizations. When a defendant serves a demand for authorizations together with a demand for a BP, counsel for the plaintiff shall serve the authorizations with the BP.
- h. Independent Medical Examinations ("IMEs"). IMEs are to be noticed within 20 days of the plaintiff's deposition and held within 60 days thereafter. (We are allowing 60 days due to delays that may be caused by social distancing guidelines)

i. Compliance Conference following the Preliminary Conference: The date for the submission of a Compliance Conference Stipulation and Order shall be set by the Court in the PC Order. Absent an extenuating circumstance (and factoring case complexity), a Compliance Conference Stipulation and Order submission date will be scheduled for no later than three months after the PC Order. This will most likely be shortly after the date prescribed by the PC Order for the deposition of the plaintiff[s]. The parties must submit a Compliance Conference Stipulation and Order to cscp@nycorts.gov for the Court's approval *at least two business days* before the case appears on the Compliance Conference calendar. (See the Court's website and the Compliance Part Rules for further details).

II. General

a. Appearances by Counsel; Knowledge and Authority: Counsel who appear at all conferences must have sufficient familiarity with the case to discuss a discovery schedule in a meaningful way and to enter into a discovery agreement. Counsel must also have the requisite knowledge of the case and authority to engage in meaningful settlement negotiations. Counsel may be referred to the Court's Presumptive ADR Program at any time.

b. Letters and Other Communications: E-mails to either the Preliminary or Compliance Conference Parts are to be transmitted to the e-mail addresses for each Part, which are set forth in the part rules. DO NOT submit communication to either the PC or CC Part via NYSCEF as it will not reach the Part.

c. Obtaining Copies of Orders: All signed Preliminary Conference and Compliance Conference Stipulations and Orders will be uploaded to the County Clerk/NYSCEF and the parties are responsible for obtaining copies of the orders from the County Clerk/NYSCEF files.

d. Filling Out Stipulations, Forms and Orders: Names, telephone numbers and email addresses for all attorneys appearing on the case must be included on all submissions to the Court.

e. Dates certain, such as "on December 31, 2022" shall be used. Open ended dates such as "on or before December 31, 2022," "within 45 days," or non-specific directives such as "all discovery not yet provided" or "unless otherwise provided," or "to the extent not yet provided," will not preserve any rights and are not to be used.

f. Adherence to Discovery Orders: Strict compliance with all Preliminary Conference and Compliance Conference Stipulation and Orders is required (*see Kihl v. Pfeffer, 94 NY2d 118 [1999]*). Unexcused or unjustified failures to comply with requirements and deadlines fixed by the Court in the subject orders, may result in the imposition of costs, sanctions, penalties or other remedies upon the offending party pursuant section 130.2.1 of the Rules of the Chief Administrator, 22 NYCRR 202.27, or other applicable rule or statute, including but not limited to CPLR 3126. Extensions of deadlines set forth in Preliminary Conference, Compliance Conference Stipulation and Order or other discovery orders must be requested from the Court in writing and shall only be granted upon a showing of good cause.

III. Motions

- a. Disclosure Disputes. Prior to making a discovery motion, counsel shall consult one another in a good faith effort to resolve any discovery disputes in compliance with Uniform Rule 202.7 (a)(2). The failure to submit an Affirmation of Good Faith with any discovery motion shall result in denial of the motion. Absent good cause, failure to comply with a discovery order may result in the imposition of penalties upon the offending party and, where warranted, upon counsel. Such penalties may include waiver of the discovery, preclusion, dismissal, striking of an answer, costs, sanctions, and/or attorneys' fees.
- b. Discovery Motion Rules. If the parties are unable to resolve a discovery dispute after a good faith effort, an application shall be made for a pre-motion conference to discuss the discovery dispute and all other discovery issues in the case. The application shall be made via e-mail address provided above and shall state the nature of the discovery dispute and applicable law relative thereto. A conference will then be scheduled by the Court. If the discovery dispute is not resolved at the conference, a briefing schedule will be issued for the motion to be made before the ASSIGNED IAS JUSTICE. No motion for discovery shall be made without an Affirmation from the movant that a conference with the Court was first requested and either held or denied. The absence of such an Affirmation shall result in denial of the motion.
- c. Motions for Summary Judgment. Motions for summary judgment shall be made pursuant to the CPLR or the Individual Part rules, if earlier, or any other order of the court.

IV. Note of Issue

A Note of Issue and Certificate of Readiness may not be filed unless: (1) a Certification Order has been issued BY A JUDGE OF THE CC PART; or (2) a stipulation has been executed by all counsel indicating that all discovery is complete and a copy of the stipulation is filed with the Note of Issue; or (3) such other order issued by the Court.