

Civil Term - Part Rules, Part 32, Courtroom G-40

**Civil Term- Part Rules
Part 32, Courtroom LIC, Rm G40
Justice Rudolph E. Greco, Jr.
25-10 Court Square
Long Island City, NY 11101
Chambers: 718.298.1608
Facsimile: 212.298.1134
Courtroom: 718.298.1668**

**Principal Law Clerk: Catherine McEneney Chan
Secretary: Sheila Hannigan
Part Clerk: Linda Komorowski**

Preliminary Conferences

A preliminary conference shall be scheduled (1) automatically by the Court within 45 days after filing a Request for Judicial Intervention, pursuant to 22 NYCRR 202.12(b); or (2) upon filing a written request for a Preliminary Conference with the Clerk's office, Room 140, in compliance with 22 NYCRR 202.12(a); or (3) an appropriate notice is filed in malpractice or certiorari cases pursuant to 22 NYCRR 202.56 and 202.60.

All preliminary conferences will be held on Mondays at 11:30 A.M. at the Preliminary Conference Part, Room Number 314, of the Jamaica courthouse, located at 88-11 Sutphin Boulevard, Jamaica, New York. Such conferences are presided over by the Court appointed referee, unless otherwise directed by the Court. Failure to appear at the scheduled preliminary conference may result in discovery being ordered ex-parte or any other appropriate sanction including preclusion or dismissal. Inquiries shall be made to the Preliminary Conference Part at (718)298-1046

Compliance Conferences

Compliance conferences shall be held on the date scheduled in the Preliminary Conference Stipulation and Order. Compliance Conferences shall be held in the centralized Compliance Conference Part, in Room 313 of the Jamaica courthouse. Inquiries shall be made to the Compliance Conference Part at (718) 298-1093.

Motions

Scheduling

All motions shall be made returnable and heard on **Thursdays at 9:30 a.m.** in the Part 32 courtroom of the Long Island City courthouse at 25-10 Court Square, Room G40, LIC, NY 11101.

Failure to notice a motion in compliance with the designated day, time and location above shall result in the motion being marked off calendar without prejudice.

There will be only one calendar call.

Part 32 will administratively reschedule any motion noticed for a holiday or a Thursday for which the part is closed. 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 adjourned date.

Where a motion or application is “marked off” calendar for non-compliance with Part rules regarding scheduling, appearance, or submission of papers, a new motion or application may be filed in accordance with the Part rules. A motion to restore, renew or reargue is not required.

The parties shall notify the Court immediately if any pending motion or application has been settled or withdrawn. A stipulation of settlement or withdrawal of the motion or application shall be sent to Part 32 via facsimile and filed with the Court.

Paper Submissions

All responsive papers must be submitted in person by counsel on the return date of the motion or application. Part 32 does not accept any papers by mail, e-mail or by fax.

Papers shall not be accepted prior to the call of the calendar with one exception only: stipulations adjourning or withdrawing motions or applications.

No additional papers shall be accepted after the motion has been marked without express permission of the Court.

E-Filed Matters

Working copies on any motion or application subject to e-filing must be submitted **at the beginning of your conference with either the Judge or Law Clerk**. Failure to present the required working copy **at the beginning of your conference** will result in the matter being marked off the calendar.

If you are granted an adjournment, then you must bring the working copies back on the return date. The Part will not take working copies until the motion is fully submitted.

A party that has opted out of participation in e-file will file documents in hard copy which shall include, on a separate page firmly affixed thereto, the “Notice of Hard Copy Submission- E-Filed Case” form. This form can be found at the NYSCEF site at <https://iapps.courts.state.ny.uys>.

All motion papers, including working copies, shall be securely fastened and shall have protruding exhibit* tabs. Non-conforming papers may be rejected by the Part.

***For the sake of conserving energy and reducing waste, the Part now only requires working copies of the following e-filed exhibits: (1) EBT transcripts; (2) any relevant transcripts; (3) affidavits of merit, doctors’ affirmations, expert affidavits or the like; (4) proof of service & affidavits of service—when necessary (defaulting party or parties, order to show cause, foreclosure actions, etc.); and (5) contracts, deeds, mortgages, notes, etc.—when applicable. If the motion is for a default judgment, including foreclosures, then you MUST include all exhibits.**

Appearances

Appearances are mandatory for all motions. All appearances shall be made by attorneys familiar with the case, prepared and authorized to resolve or settle any and all issues.

Discovery related motions: On any discovery related motion or application, attorneys are encouraged to conference these among themselves with the expectation that the issues will be resolved by stipulation. The Part is prepared to assist in connection with these motions or applications by virtue of preclusion language, or so-ordering the stipulation as necessary.

All stipulations must indicate that the motion, and any cross-motion, is/are being withdrawn pursuant to the stipulation and must be signed by the attorneys appearing at the calendar call.

Any items of discovery not specifically identified as outstanding at the time of the stipulation resolving the motion are deemed waived. **Thus, attorneys shall notify the Part if there is/are another/other discovery motion(s) scheduled for a later date, so that it/they may be advanced, and all discovery issues may be resolved at once. To avoid future motion practice, the Part encourages the attorneys to resolve all discovery issues that are outstanding at once, regardless of whether such issues were presented within the subject discovery motion.**

Adjournments

Part 32 reserves the right to supplement or amend the following rules regarding adjournments at any time.

The Part is now accepting stipulations for adjournments, via fax and e-mail, for motions that have not been previously adjourned. The Part reserves the right to change the adjourn date or deny adjournment. The Part will notify the movant if the stipulation is changed or denied. The movant will be responsible for notifying all parties of the administratively rescheduled date or denial and providing proof of same to the Part on the rescheduled adjourned date.

If the motion has been previously adjourned, the attorneys must conference call the Part for approval. If approved, the attorneys must fax or e-mail a stipulation pursuant to the terms agreed upon during the conference call.

Briefing Schedule: In the event an adjournment on the initial return date is granted a briefing schedule will be issued with dates for responsive papers. This schedule shall be conveyed verbally or in writing to the attorneys and shall appear on the face of the motion papers. Failure to serve responsive papers in accordance with the briefing schedule shall result in the rejection of those papers on the adjourned date.

Status/Decisions

Calls regarding the status of a motion or application decision will not be entertained unless the decision has been pending for more than 60 days. In that case, the request **MUST** be in writing, contain the name of the matter, index number and date the motion was marked submitted. This request can be faxed to the Part.

Copies of motion or application decisions or orders will not be sent to counsel unless deemed necessary by the Part. Decisions or orders can be retrieved on-line or at the County Clerk's office located in the Jamaica courthouse, Room 106.

Further inquiries should be directed to the Motion Support Office at 718-298-1009 or Ex-Parte Support Office 718-298-1018.

Trial Preparation and Trials

Pre-Trial Conferences will be held prior to the start of every trial. At this conference counsel should be prepared to:

1. Discuss settlement;
2. Advise the Court as to all anticipated disputed issues of law and fact and provide the Court with copies of all statutory and common law authority upon which counsel will rely;
3. Stipulate to undisputed facts and the admissibility of clearly admissible documents and records in evidence;
4. Advise the Court of any anticipated *in limine* motions or evidentiary objections which counsel intends to make;
5. Advise the Court of any anticipated requests for jury instruction relating to missing witnesses and/or documents;
6. Advise the Court of any anticipated request for apportionment as to alleged culpable non-parties pursuant to CPLR Article 16; and
7. Discuss scheduling as well as the number and availability of all witnesses and subpoenaed documents. The Court should be alerted as to any anticipated problems regarding the attendance at trial of parties, attorneys or essential witnesses, as well as any other practical problems related to scheduling.

Scheduling:

Trials will be conducted on a continual basis until conclusion. No adjournments or delays during the trial will be accepted, unless exigent circumstances arise. Expert witnesses shall adhere to the Court's schedule, not theirs.

Tort actions are generally bifurcated. The Court expects, unless advised previously by counsel, that any trial on damages will follow immediately after a verdict finding a defendant liable.

Motions in Limine may be made orally, however must be supported by a concise (1-2 page) written memorandum of law to be submitted to the Court and provided to opposing counsel, with a copy of any cases cited and the pages of evidence law treaties cited therein. All prior decisions and orders relevant to any *in limine* application must be provided to the Court. **All written motions *in limine* require proof of payment of the required fee.**

Be Prepared

Plaintiff's counsel shall requisition the file to the Part 32 courtroom immediately after assignment of the case to the part. Counsel must advise the Court, Part Clerk and Court Officer or any special needs, e.g., easels, blackboards, shadow boxes, television, subpoenaed material, etc., in advance, so as not to delay the progress of the trial. **Requests for interpreters must be made immediately upon assignment of the case to the Court and Part Clerk.**

Marked Pleadings Plus

Prior to the start of a trial, plaintiff's counsel shall furnish the Court with copies of marked pleadings, the bill of particulars, and a copy of any statutory provisions in effect at the time the cause of action arose, upon which any party relies.

Additionally, counsel for all parties shall provide to the Court:

- a. A list of exhibits to which parties are expected to stipulate;
- b. A summary of all expert reports to be offered into evidence together with a glossary of terms that will be used or are expected to be used by the expert witness but are typically unfamiliar to a lay person;

- c. All reports, depositions and written statements which may be used to either refresh a witness's recollection and/or cross-examine the witness;
- d. To the extent any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination) you must, in advance, provide the Court and your adversary(ies) with the page and line number of all such testimony. Objections may be addressed prior to use before a jury;
- e. A list of the names of all witnesses to be called, and for each a brief summary of their testimony; and
- f. Proposed jury charges and proposed verdict sheets. Jury charges should be referred to by PJI number and topic. Amendments thereto shall be permitted at the final charging conference. If any changes are suggested, then the entire proposed change should be set forth, and the changes highlighted. Citations to appropriate statutory or common law authority in a brief written memorandum must be given in support of suggested non-PJI charges, any special charges, or suggested PJI modifications.

Settlements and Discontinuances

If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the Court by submission of a copy of the stipulation of settlement or a letter. All stipulations of discontinuance must be accompanied by proof of payment of the appropriate fee. (CPLR §8020[d][1]).

The stipulation or letter shall advise the Court if any motions or application are pending so they may be resolved (*see above rules relative to motions*).

Uncontested Matrimonial

Any corrections to a rejected set of matrimonial papers must be submitted directly to chambers no later than the date provided for in the Memorandum for Corrective Action.

Infant's Compromise Orders

Before submission of an infant's compromise order, counsel shall obtain from the Part 32 Clerk an infant compromise checklist to ensure the submission of all necessary information and documentation. Orders sent to chambers without all the required paperwork will be returned to counsel. Proof of payment of required fees is also required. Hearings will be scheduled by the Court and plaintiff's counsel.

Miscellaneous

Correspondence is to be sent in ONLY ONE of the following ways: via facsimile or United States Postal Service or Federal Express.

Ex parte communications will not be considered and will be returned with a notation that they were "unread."