

Civil Term - Part Rules, Part 34, Courtroom 304

Justice Robert J. McDonald
25-10 Court Square
Long Island City, NY 11101

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Courtroom Phone: (718) 298-1652
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Principal Law Clerk: Jacqueline M. Mazzola
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Preliminary Conference

A Preliminary Conference shall be scheduled automatically by the Court within forty-five (45) days after filing a Request for Judicial Intervention, pursuant to 22 NYCRR 202.12(b); or upon filing a written Request for a Preliminary Conference with the Jamaica Clerk's Office, Room 140, in compliance with 22 NYCRR 202.12(a); or upon filing an appropriate notice in a malpractice or certiorari case pursuant to 22 NYCRR 202.56 and 202.60.

Preliminary Conferences are held on a Wednesday at 9:30 a.m. in the Preliminary Conference Part, Room 314 of the Jamaica courthouse located at 88-11 Sutphin Blvd., Jamaica, N.Y., not the Long Island City courthouse.

Preliminary 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 ordered. Any inquiry pertaining to Preliminary Conferences shall be made to the Preliminary Conference Part at (718) 298-1046.

Compliance Conference

Compliance Conferences are held in Room 313 of the **Jamaica courthouse** located at 88-11 Sutphin Blvd., Jamaica, N.Y., not the Long Island City courthouse.

Compliance Conferences shall be held 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.

Motion

Motions noticed after April 23, 2018, shall be made returnable and noticed to be heard in Part 34, Courtroom 304, of the **Long Island City courthouse** located at 25-10 Court Square, Long Island City, N.Y. 11101 on a *Thursday at 10:00 a.m.* Failure to notice a motion in compliance with the above, may result in the motion being marked off the calendar without prejudice or adjourned for the movant to serve a properly noticed amended notice of motion. There will be only one calendar call.

Mandatory appearance will be required for any and all discovery applications, including applications to vacate a note of issue. Any attorney appearing on a case for any purpose must be familiar with

the case, prepared, and authorized to resolve any and all issues. On the return date, any discovery related application will be conferenced with the expectation that the issues will be resolved by stipulation. All stipulations must indicate that the motion, and where appropriate the cross-motion, is being withdrawn pursuant to the stipulation and must be signed by the attorneys appearing at the calendar call.

All other motions and applications shall be submitted on papers only. Oral argument will be entertained only in the Court's discretion. Whenever a mandatory appearance is not required, use of calendar service is permitted both to submit papers and to request consent adjournments. Adjournments on consent will be allowed upon written stipulation. All stipulations must contain the signature of the attorney consenting to the adjournment. Stipulations requesting a consent adjournment or withdrawing an application may be submitted during the call of the calendar or prior to the return date, by facsimile to Chambers at (212) 720-9424, or by e-mail to Chambers at MCDONALD_CHAMBERS@NYCOURTS.GOV Only ONE adjournment will be permitted. Any further requests for adjournments will be entertained only in the Court's discretion during the call of the calendar or prior to the return date by calling Chambers at (718) 298-1661.

The answering papers, including cross-motions, affirmations in opposition and reply affirmations, will be accepted prior to or on the return date in the Part. On any application subject to e-file, a working copy must be submitted prior to or at the call of the calendar. Each working copy must include, firmly affixed to the back of the motion papers, a copy of the confirmation notice received from the NYSCEF site upon the electronic filing of such documents. A party that has opted out of participation in e-file will file documents in hard copy which will include, on a separate page firmly affixed thereto, the "NOTICE OF HARD COPY SUBMISSION- E-FILED CASE" form, which can be found on the NYSCEF site at <https://iapps.courts.state.ny.us/nyscef>

If papers are submitted prior to the calendar call, it is that party's responsibility to ensure that the papers were received by the Part.

In any case where a motion is "Marked Off" for non-compliance with the Part Rules such as improper notice, failure to appear in court as required by the Part Rules (i.e. a discovery motion or order to show cause), or failure to provide a working copy of an electronically filed motion, a new motion for the original relief sought may be filed in accordance with the Part Rules. A motion to Restore, Renew or Reargue is NOT required.

Trials

Prior to the commencement of trial, all counsel must submit to the court, marked pleadings, a copy of the Bill of Particulars, a witness list, exhibit list, proposed jury instruction, and a proposed verdict sheet. Counsel must also know the availability of all witnesses.

On the first appearance in the Part for trial, any party intending to make a motion in limine shall make such motion orally, but may submit a memorandum of law in support of the application. The party shall furnish the court with an original and one copy and provide counsel for all parties with a copy. Any written motions in limine require proof of payment of the appropriate fee.

The trial will be conducted on a continual daily basis until its conclusion. No adjournments or delays during trial will be accepted unless exigent circumstances exist.

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 the defendant liable.

Prior to coming to the Part, plaintiff's counsel shall requisition the file from the County Clerk and deliver it to the Part Clerk. Counsel must advise the Court, Part Clerk and Court Officer of any special needs, e.g., interpreters, easels, shadow boxes, television, VCR, etc., in advance, so as not to delay the progress of the trial.

The Court encourages that counsel pre-mark trial exhibits for identification and, where possible, stipulate to the admissibility of clearly admissible documents and records.

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.

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 directed to the Clerk of the Part. All stipulations of discontinuances must be accompanied by proof of payment of the appropriate fee. (CPLR § 8020[d][1]).

Infant's Compromise Orders

Before submission of an infant's compromise order, counsel shall obtain from the Clerk of Part 34 an infant's compromise checklist to ensure the submission of all necessary information and documentation. Proof of payment of any appropriate fee is required.

Uncontested Matrimonials

Any corrections to a rejected set of matrimonial papers must be submitted to the Matrimonial Clerk in Jamaica, not Long Island City and NOT directly to Chambers.