

Civil Term - Part Rules, Part 40

JUSTICE RICHARD G. LATIN
25-10 Court Square- Courtroom B-10

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PLEASE NOTE THAT PART 40 DOES NOT HAVE A SECRETARY; PLEASE LEAVE A MESSAGE. THE PART STAFF WILL RETURN YOUR CALL AT THE EARLIEST POSSIBLE TIME. THERE SHALL BE NO EX PARTE COMMUNICATION WITH THE COURT.

Preliminary Conferences

A preliminary conference shall be scheduled automatically by the Court within forty-five (45) days after filing 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 at the Jamaica Court Courthouse located at 88-11 Sutphin Blvd. Jamaica, NY, 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 Tuesdays at 9:30 AM in the Preliminary Conference Part, Room 314 of the courthouse located at 88-11 Sutphin Blvd., Jamaica, NY and not at the Long Island City courthouse.

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 pertaining to preliminary conferences shall be made to the Preliminary Conference Part at 718.298.1046 and further information is available at https://www.nycourts.gov/courts/11jd/supreme/civilterm/civil_schedule.shtml.

Compliance Conference

Compliance conferences shall be held on the date scheduled in the Preliminary Conference Stipulation and Order. Conferences shall be before Justice Esposito at the Compliance, Settlement and Conference Part in Room 3002.

Inquiries pertaining to compliance conferences shall be made to the Compliance and Settlement Conference Part at 718.298.1093 and further information is available at https://www.nycourts.gov/COURTS/11jd/supreme/civilterm/comp_conf.shtml.

Motions

All motions shall be made returnable and be heard on Thursday at 10 a.m. at the Long Island City Courthouse located at 25-10 Court Square, NY, 11101 in Courtroom B-10.

Failure to notice a motion in compliance with the designated day, time and location above may result in the motion being "Marked Off" calendar without prejudice.

Oral Argument may be required in the discretion of the court.

The Court may administratively reschedule any application or motion noticed for a holiday or a day on which the part is closed. Information will be available on e-courts. Should the Part administratively reschedule, 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 adjournment date.

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, or failure to provide a working copy of an e-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.

The parties shall notify the court immediately withdrawing any pending motion or application in the event a matter is settled or discontinued. Stipulations of settlement or discontinuance shall immediately be sent via facsimile to chambers and filed with the court.

Appearances

Any attorney appearing on a case for any purpose MUST be familiar with the case, prepared, and authorized to resolve any and all issues.

**Appearances are mandatory for ALL motions and applications.
All motions and applications will be conferenced**

Matters with more than two parties, where all parties are present at the call of the 10:00 AM calendar, will be heard first.

Discovery related motions are strongly discouraged. On any **Discovery related motion or application**, attorneys are encouraged to conference the issues among themselves with the expectation that the issues will be resolved by stipulation. 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.

Paper Submissions

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

No Sur-Reply papers, or additional or additional papers shall be accepted after a motion is marked "fully submitted" without express permission of the court.

Motions to renew and/or reargue shall contain a copy of the court's original decision and copies of all papers submitted in support of the original motion.

Failure to comply with the requirements of this section may result in the rejection of the offending motion.

On any application subject to **E-FILE**:

A working copy must be submitted at the call of the calendar. Failure to present the required working copy at the calendar call will result in the matter being marked off 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>
All motion papers, including working copies, shall be securely fastened and shall have protruding exhibit tabs. Non-conforming papers may be rejected by the Court.

Adjournments

A matter may be adjourned only once on consent. Use of calendar service is permitted to submit a stipulation requesting a consent adjournment. Subsequent requests for an adjournment requires a personal appearance. The party seeking the adjournment must give written notice to adversaries and co-counsel in advance that a further adjournment will be requested.

Stipulations requesting a consent adjournment must contain the signatures of all appearing parties and can be submitted at the calendar call or sent to Chambers via facsimile at (212) 618-0687 no later than the day prior to the return date.

Requests for adjournment beyond ONE will be granted sparingly in the court's discretion.

Status of Decisions

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.

Calls regarding the status of a motion or application decision WILL NOT be entertained by chambers, but must be made only to the Part Clerk at (718) 298-1747.

Infant Compromise Orders

Before submission of a proposed infant's compromise order, counsel shall obtain from the clerk of Part 40 an infant compromise checklist to ensure the submission of all necessary information and documentation. Infant compromise hearings will be scheduled by the Court and the plaintiff's attorney will be informed of the hearing date.

Uncontested Matrimonials

Uncontested matrimonial papers are filed with the appropriate Clerk in the Jamaica courthouse. Papers will be reviewed in the Part. Papers requiring corrective action must be submitted within 30 days of receipt of the Uncontested Matrimonial Submission Checklist. Corrected papers are to be mailed directly to Chambers or hand delivered to Part 40.

This Court takes seriously its duty to protect children in calculating child support. Unsupported deviations from the guidelines will result in rejections and thus slow down the sought after judgment of divorce. Deviations from child support guidelines must be thoroughly explained in an affidavit of the party, without resorting to conclusory language, and in the attorney's affirmation.

Trials

Plaintiff's counsel shall requisition the file to the Part 40 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 Part Clerk, in advance, so as not to delay the progress of the trial.

Plaintiff's counsel shall furnish the Court with copies of marked pleadings, the bill(s) of particulars, a witness list, an exhibit list, proposed jury instructions, proposed verdict sheet, and copies of any case law and/or statutory provisions, including the NYC Administrative Code, NYS Vehicle and Traffic Law, and the Traffic Rules and Regulations of the City of New York, which any party will rely upon, both redacted for relevancy and in their original form.

On the first appearance in Part 40, 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. Should the party deem it necessary to submit a memorandum of law, 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 Court encourages that trial exhibits be pre-marked for identification and, where possible, stipulate to the admissibility of clearly admissible documents and records.

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(s) liable.

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 the Court should consider in scheduling.

Settlement and Discontinuances

If an action is settled, discontinued or otherwise disposed of, counsel shall immediately inform the Court by submission of the stipulation of settlement or a letter directed to the Part 40 Clerk. All stipulations of discontinuance must be accompanied by proof of payment of the appropriate fee (CPLR 8020[d][1]).

All decisions, orders, etc. are available at the Queens County Clerk's Office in the Jamaica Courthouse. All inquiries, including case and calendar status, are to be made to the appropriate clerk's office. Counsel should **NOT** contact Chambers or the Part 40 clerk for any inquiries unless with leave of the Court.

Motion Support Office 718.298.1009

Ex Parte Support Office 718.298.1018

Matrimonial Office 718.298.1012

Please be advised that the Court Rules for Part 40 are subject to change.