

Civil Term - Part Rules, Part 41, Courtroom 44A

Justice Ulysses B. Leverett

88-11 Sutphin Boulevard
Jamaica, NY 11435

Chambers Tele: (718) 298-1719
Courtroom Tele: (718) 298-1718
Fax No.: (212)-618-0686

Principal Law Clerk: Sharon Adams, Esq.
Asst. Law Clerk: Paula McFarlane, Esq.
Part Clerk: Robert McKibbin

Motions

Article 78 Motions shall be made returnable and heard on Mondays at 10:00 a.m. in Courtroom 44A. There will be no second calendar call.

All other motions, including Article 75 petitions, shall be made returnable and heard on Wednesdays at 10:00 a.m. in Courtroom 44A.

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

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, or renew or reargue is not required.

Appearance of Counsel and pro-se litigants are MANDATORY on all motions. The motions will be heard for all purposes in the part on the return date. On that date, all motions and applications will be conferenced by the Justice or his Law Clerk with the expectation that the issues will be resolved by stipulation. Any items of discovery related motions not specifically identified as outstanding at the time of the stipulation resolving the motion are deemed waived. Papers will not be accepted from calendar service inasmuch as a personal appearance by counsel and pro se litigants are required.

The Court further directs that any attorney appearing on a case for any purpose must be familiar with the case, ready and authorized to resolve any and all issues.

Motion Papers

All motion papers submitted shall be in compliance with 22 NYCRR 202.5, concerning papers filed with the Court. In addition to the requirements of 22 NYCRR 202.5, all papers are to be numbered and all paragraphs are to be numbered. All exhibits are to be preceded by a numbered exhibit tab which protrudes from the stack. All submissions are to be securely fastened so as to prevent the papers from separating from each other and becoming lost.

All responsive papers must be submitted in person by counsel on the return date of the motion or application. **Part 41 DOES NOT ACCEPT ANY PAPERS BY MAIL OR FAX.**

Working copies on any motion or application subject to e-filing must be submitted at the call of the calendar. Failure to present the required working copy at the calendar call may result in the matter being denied without prejudice. Each working copy must include, firmly affixed to the back of the papers, a copy of the confirmation notice received from the New York State Courts Electronic Filing System (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 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. E-filed motions must otherwise comply with 22 NYCRR 202.5-b.

Motion papers must be marked up prior to calendar call. The calendar number and sequence number must be written on the face of the Notice of Motion.

No sur reply papers, (optional: Reply papers to an Order to Show Cause) or additional papers shall be accepted after a motion is marked "fully submitted" (without express permission of the Court). Cross motions shall NOT be considered as opposition to main motions. Papers proffered in opposition to the main motion shall be contained in a standalone document and not subsumed in a cross motion. Likewise, papers proffered in opposition to a cross motion shall be a standalone document and not subsumed in a Reply. Failure to comply with the requirements of this section may result in the rejection of the non-compliant papers.

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.

Motions will be marked off if made returnable to the wrong Court address and/or for the wrong date. The moving party must notify all parties of adjourn dates and/or administratively adjourn dates and provide the Court with proof of its notifications to the parties.

Order to Show Cause

Counsel must submit moving papers/affirmation in support for all Order to Show Causes and Ex-Parte orders.

Adjournments

Applications for adjournments on consent, or otherwise, will be entertained only at the call of the calendar, and WILL NOT be entertained by mail, e-mail, fax or telephone. Calendar service or non-attorneys will not be permitted to make applications for adjournments.

Applications for an adjournment will be granted as a matter of right for the first time. No further applications will be granted without permission of the Court.

In the event an adjournment on the initial return date is granted, a briefing schedule will be issued with date for responsive papers. Failure to serve responsive papers in accordance with the briefing schedule may result in rejection of those papers on the adjourn date.

Framed Issue Hearings

Court directed proposed orders must be delivered to the designated basket in the back of Courtroom 44A or faxed directly to Chambers but **NOT** through the E-filing system.

Trials

A counsel must submit to the Court, prior to the commencement of trial, marked pleadings, proposed jury instructions and a proposed verdict sheet.

Motions in Limine: 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.

The trial will be conducted on a continual daily basis other than Wednesdays unless otherwise directed by the Court.

No adjournments or delays during trial will be allowed unless exigent circumstances exist.

The attorneys must provide Examination Before Trial (EBT) transcripts if any part of a deposition is to be read into evidence.

The attorneys should advise the Court of any special needs, prior to commencement of trial, e.g. an easel, blackboard, television, etc.

Counsel are responsible for obtaining subpoenaed materials prior to trial from the Subpoenaed Records room at the Jamaica Supreme Court House.

Interpreters

The attorney(s) must advise the Court of the need for an interpreter for any non-English speaking party or witness within 10 days of any scheduled hearing.

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 or by stipulation on the record. A stipulation of settlement or voluntary discontinuance may be filed after payment of appropriate fees (CPLR 8020(d)(1)).

Preliminary Conference

DO NOT CALL CHAMBERS. Inquiries shall be made directly to the Preliminary Conference Part at 88-11 Sutphin Blvd, Jamaica, NY.

All Preliminary Conferences are held in Room 314 on Thursday at 11:30 AM, and are presided over by the court-appointed Referee, unless otherwise directed by the Court.

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 an appropriate notice is filed in malpractice or certiorari cases pursuant to 22 NYCRR 202.56 and 202.60.

Infant Compromise Orders

Contact the Clerk of Part 41 for the Checklist of Requirements for Infant's Compromise Orders.

Decisions/ Status

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 at 212-618-0686.

Copies of motions, applications, 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.