

## ***Civil Term - Part Rules, Part 42, Courtroom 103***

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Justice Maurice E. Muir  
25-10 Court Square, Long Island City, NY 11101  
Chambers Phone: (718) 298-0098  
Courtroom Phone: (718) 298-1686  
Principal Law Clerk: Audrey LeVine, Esq.:  
Part Clerk: Vincent Chia

### **Preliminary Conference**

Preliminary Conferences will be held every Wednesday at 11:30 a.m. in the P.C. Part, located at 88-11 Sutphin Blvd., Jamaica, N.Y., room 314, unless parties are otherwise notified by the Court. Counsel attending the conference must be fully familiar with and authorized to settle, stipulate or dispose of the proceedings. There shall be no more than one consent adjournment by written stipulation, signed by all parties, and presented to the referee on the date of the scheduled Preliminary Conference. Such adjournment shall be for a period of no more than 14 days, unless approved by the referee. Any further adjournments shall be by application to the referee, in person, upon notice to all other parties. A Preliminary Conference Order will issue setting forth the issues resolved, issues to be determined at trial, a timetable for completion of disclosure proceedings, the Compliance Conference date, and the date for filing the Note of Issue. No adjournments of any dates of scheduled discovery will be permitted without leave of court. Be further advised that no ex parte application for adjournments will be entertained. Counsel for all parties must appear at all scheduled Preliminary Conferences and, whether present or not, will be bound by all orders of the court issued in connection therewith. Failure to comply with the foregoing may result in discovery ordered ex parte, dismissal, inquest or other sanctions. Further, the order shall contain dates certain for which discovery shall be conducted. Any Preliminary Conference Orders for which dates are left empty or marked "to be determined" shall be rejected, and not signed by this Court. Any inquiries pertaining to Preliminary Conferences shall be made to the Preliminary Conference Part at (718) 298-1046.

### **Compliance Conference**

Compliance Conference shall be held on the date scheduled in the Preliminary Conference Order. Conferences shall be held before Justice Maureen Healy in Room 3002 of the Courthouse located at 88-11 Sutphin Blvd., Jamaica, N.Y. Any inquiries pertaining to Compliance Conferences shall be made to the Compliance Conference Part at (718) 298-1093.

## Motion Procedure (for motions made in unassigned cases)

1. Moving papers are to be filed in the Clerk's Office pursuant to Uniform Rule 202.8(b) and the instructions under the listings for this court in the New York Law Journal. Such papers shall be filed in the IAS Motion Support Office at 88-11 Sutphin Blvd., Jamaica, N.Y., at least seven (7) business days prior to the scheduled return date in order to be placed on the Part motion calendar for the day noticed. Answering papers will be accepted only on the return date in the Part. Service requirements under CPLR § 2214 and § 2215 will be strictly enforced.
2. No motion relating to disclosure or a bill of particulars will be accepted by the Clerk's Office without an affirmation of good faith as required by Uniform Rule 202.7.
3. All initial motions filed in the Clerk's Office will be heard for all purposes in the Part on the rescheduled date indicated in the New York Law Journal publication of the IAS assignment.

## Motions

All motions shall be made returnable and heard on Thursdays at 10:00 a.m. at the Long Island City Courthouse located at 25-10 Court Square, Long Island City, N.Y. 11101 in Courtroom 103.

There will be a second calendar call at 11:00 a.m.

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.

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 to chambers and filed with the court upon telephone notification to Chambers.

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.

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

Mandatory appearance will be required for an Order to Show Cause, any Discovery Application, and 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 may be submitted on papers only. Oral argument is not required and will be entertained only in the Court's discretion. Whenever a personal appearance is not required, use of calendar service is permitted both to submit papers and to request consent adjournments, which will be limited to one. Adjournments on consent will be allowed upon written stipulation. All stipulations must contain the signature of the attorneys 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 calling Chambers at (718) 298-0098. Only ONE adjournment will be permitted.

The answering papers, including cross-motions, affirmations in opposition and reply affirmations, will be accepted only on the return date in the Part. On any application subject to e-file, a working copy must be submitted 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/CaseSearch> All motion papers, including working copies, shall be securely fastened and shall have protruding exhibit tabs. Nonconforming papers may be rejected by the Court.

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.

## Adjournments

Adjournments on consent will be allowed upon written stipulation subject to the Court's approval. All stipulations must contain the signature of all attorneys consenting to the adjournment. Stipulations requesting a consent adjournment or withdrawing an application may be submitted during the call of the calendar ONLY and NOT by mail, telephone call, or e-mail.

## 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 be entertained only for decisions that have 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.

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

## Trials

All Counsel must submit to the Court, prior to the commencement of trial, a Trial Book containing, inter alia, marked proceedings, a copy of the bill of particulars, a witness list, an exhibit sheet, a proposed verdict sheet and proposed jury instructions written in the narrative and verbatim as Counsel would have the Court to charge. If the proposed jury instructions are verbatim from the Pattern Jury Instructions ("PJI"), only PJI numbers are necessary. If a PJI is being modified, the exact language must be submitted together with the appropriate authority therefor. In the case of a bench trial, all Counsel must submit a witness list, proposed findings of fact and a memorandum of law. The trial will be conducted on a continual basis until conclusion. No adjournments will be permitted unless exigent circumstances exist. The parties must notify the Court of all legal issues and shall furnish the Court with copies of the cases and authority relied upon, highlighting in yellow the appropriate portion supporting their positions. The parties must be present for settlement or discontinuance of any case on trial, whereupon there shall be a complete allocution of the plaintiff.

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.

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 the commencement of trial, Plaintiff's Counsel shall requisition the file from the County Clerk and deliver it to the Trial Courthouse.

Any interpreters, easels, shadow boxes, television, etc., must be ordered in advance, so as not to delay the progress of the trial.

The Court encourages that trial exhibits be pre-marked for identification and, where possible, the parties shall stipulate to the admissibility of consented 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 discontinuance must be accompanied by proof of payment of the appropriate fee. (CPLR § 8020[d][1]).

## Infants 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.