

RULES, PRACTICES, AND PROCEDURES

JUDGE NICOLE McGREGOR MUNDY

Judge, NYS Court of Claims
Acting Justice, NYS Supreme Court

I.A. Part 7 and Commercial Division Part D

Supreme Court of the State of New York, Queens County – Civil Term
88-11 Sutphin Boulevard, Jamaica, New York 11435

Chambers telephone: (718) 298-1005
Part 7 e-mail: qscpart7@nycourts.gov
Com. Div. Part D e-mail: qnsdptd@nycourts.gov

Motion Calendar: Tuesdays at 10:00 a.m.

Commercial Division

Preliminary Conferences: Mondays at 11:30 a.m.

Compliance Conferences: Tuesdays at 11:30 a.m.

Pre-Trial Conference: Mondays at 10:00 a.m.

GENERAL

1. All attorneys and self-represented litigants must familiarize themselves with these Part Rules and the Rules of the Commercial Division of the Supreme Court (22 NYCRR 202.70).¹
2. A Motion Submission Form (MSF) MUST be sent to the Part Clerk at qscpart7@nycourts.gov or qnsdptd@nycourts.gov two (2) business days prior to the return date of any motion or order to show cause.

¹ The Commercial Division Rules are available at:
<http://ww2.nycourts.gov/rules/trialcourts/202.shtml#70>.

3. Please notify the Court IMMEDIATELY, especially when a motion is pending before Part 7 or Part D, if the action or special proceeding has been settled, discontinued, and/or the motion has been resolved, via email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov . **ALL parties MUST be copied on such email.**

IMPORTANT – Individual Assigned Parts DO NOT receive email notifications when papers are uploaded to NYSCEF. Papers that require Court action, such as a Stipulation, should be uploaded to NYSCEF **and** emailed to the Part

4. For the most up-to-date information concerning the handling of matters before the 11th Judicial District- Civil Term (Queens Supreme Court), please click this link: [11th JD- Civil Term, Queens Supreme](#)
5. I.A. Part 7 does not schedule or conduct Preliminary Conferences or Compliance Conferences. All questions regarding Preliminary Conferences and/or Compliance Conferences should be made to the Preliminary Conference Part or to the respective Compliance Conference part, NOT to Part 7. (See page 6 for more information)
6. **Any attorney and self-represented litigant appearing on a case for any purpose MUST be thoroughly familiar with the case and authorized to resolve any and all issues. The attorney and any self-represented litigant should have on hand signed copies of all prior decisions, Orders and stipulations that are relevant to the issue(s) before the Court.**

COMMUNICATIONS WITH PARTS AND CHAMBERS

1. Counsel and Litigants (represented or self-represented) are advised that Acting Justice McGregor Mundy, her Principal Law Clerk, and Part Clerk may not engage in any *Ex-Parte* communications.
2. Absolutely no telephone inquiries concerning motions or applications may be made to Chambers. Such inquiries or concerns shall be addressed via email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov .
3. Do not send any letters, documents, or other papers by US Postal Service mail to the Part or Chambers unless expressly permitted by these Rules or by prior approval of the Court.
4. **Any and all communications with Chambers or the Part must include all parties.**

ELECTRONIC FILING

1. All cases in Part 7 and Part D are required to be electronically filed through the New York State Courts E-Filing (NYSCEF) system. Attorneys are expected to familiarize themselves with NYSCEF procedures. For more information on e-filing rules, parties may visit the following link: [Queens Supreme Court E-filing web page](#).
2. DO NOT MAIL OR EMAIL ANY COURTESY COPY OF E-FILED PAPERS TO CHAMBERS, with the following exceptions: stipulations which require, or where the parties have requested, Acting Justice McGregor Mundy to “So Order” must be e-filed with NYSCEF and sent to Chambers via email to qscpart7@nycourts.gov or qnsdptd@nycourts.gov.

MOTION CALENDAR

1. All motions shall be made returnable and heard on Tuesdays at 10:00 a.m. **THE MOTION CALENDAR IS ON SUBMISSION.** There is no appearance at the motion calendar unless otherwise directed by the Court.
2. The movant and/or cross-movant are required to submit a Motion Submission Form by email to qscpart7@nycourts.gov or qnsdptd@nycourts.gov **NO LATER than two (2) BUSINESS days prior to the calendared date and time of a motion.**

The Motion Submission Form can be found at this link: [Motion Submission Form](#).

3. Oral argument can be requested by submitting a Motion Submission Form to qscpart7@nycourts.gov or qnsdptd@nycourts.gov. The Court, **upon its discretion**, may schedule oral arguments after submission of a motion. The Part will send a Microsoft Teams invitation to all parties for a virtual oral argument.
4. **Except for discovery motions, no prior permission is required before making a motion in Commercial Division Part D. A Commercial Division Rule 24 letter is not required unless expressly requested.** Prior to making a discovery motion, parties must email Commercial Division Part D at qnsdptd@nycourts.gov to arrange a mutually convenient date and time for a virtual conference.
5. All attorneys and self-represented litigants appearing (virtually or in-person) for oral argument or on discovery-related motions must be fully knowledgeable about the case, and authorized to stipulate to resolve any and all discovery-related issues.
6. **Commercial Division motions shall have the words “COMMERCIAL DIVISION” clearly and conspicuously marked on the Notice of Motion, Cross-Motion, or Order to Show Cause by the moving party. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE MOTION BEING DENIED.**

7. Stipulations regarding pending motions must be e-filed, and emailed to the Part, at least two (2) business days prior to the calendared date.
8. All motion papers submitted to the Court must comply with 22 NYCRR § 202.5. In addition to the requirements of 22 NYCRR 202.5, all pages and paragraphs of a motion must be numbered; each exhibit must be tabbed, include a short label identifying the nature exhibit, and e-filed under its own document number; the Notice of Motion or Order to Show Cause shall include the motion sequence number; and all papers must be properly labeled so as to give the Court notice as to what is being submitted (i.e. “Notice of Motion”, “Cross-Motion”; “Affirmation/Affidavit in Opposition to Motion”; “Reply”; etc.).

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN THE REJECTION OF THE NON-COMPLIANT SUBMISSION.

9. **THE COURT WILL NOT CONSIDER ANY PAPERS E-FILED OR SENT TO THE PART AFTER SUBMISSION OF THE MOTION OR CROSS-MOTION**, nor any cross-motion that does not have proof of payment of the appropriate fee.
10. **Sur-Reply papers, including correspondence, addressing the merits of a motion, are NOT permitted.**

ADJOURNMENTS

1. Motions may be adjourned the first time on the calendar with a stipulation fully executed by all parties with the requested adjourned date set forth therein. The fully executed stipulation must be submitted to the Part, no later than two (2) business days prior to the calendar date and time, via email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov.
2. Applications for adjournments will be granted as a matter of right the first time the motion is calendared, but the adjournment shall be no longer than four (4) weeks. Any further application(s) for an adjournment shall be made to the Court by email (all parties must be included on the email) or stipulation at least two (2) business days prior to the date the motion is calendared to be heard. Counsel must make every effort to notify their adversaries of their intention to seek an adjournment.
3. Applications for adjournments made less than two (2) business days prior to the scheduled date will be denied, except for a reason pursuant to Rules of Chief Administrative Judge Rule 125.1, medical emergency, other exigent circumstance, or unavailability of the Court.

4. All adjournments are subject to final approval by the Judge. All attorneys and self-represented litigants are required to confirm approval of an adjournment request prior to the scheduled calendar date and time via email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov

CONFIDENTIALITY ORDER/SEALING DOCUMENTS

1. For Commercial Division cases, any Order regarding the confidential exchange of information must adhere to the proposed Stipulation and Order for the Production and Exchange of Confidential Information that appears in Appendix B to the Rules of Practice for the Commercial Division (22 NYCRR §202.70(g), Rule 11-g)².

If the parties wish to deviate from the form set forth in Appendix B to the Rules of Practice for the Commercial Division, they must do so in compliance with 22 NYCRR §202.70(g), Rule 11-g(b).

2. Applications to seal documents shall include the nature of the document, the reason for the sealing request, and “good cause” therefore (22 NYCRR §216.1). The Court will consider applications to seal documents only by Order to Show Cause or Notice of Motion, not by stipulation.

DISCOVERY CONFERENCES AND DISPUTES

1. Conferences are held at the discretion of the Court.
2. Part 7 and Commercial Division Part D may conduct a virtual conference on a discovery-related motion {i.e., Motion to Vacate Note of Issue, Motion to Restore, Motion to Strike Pleadings, Motion to Demand Bill of Particulars, Motion to Preclude} on the day the matter is calendared, or on a future date scheduled by the Court

PRELIMINARY AND COMPLIANCE CONFERENCES

1. I.A. Part 7 does not hold non-Commercial Division Preliminary Conferences or Compliance Conferences. **DO NOT CALL CHAMBERS OR THE PART** with questions regarding non-Commercial Division Preliminary Conferences and/or Compliance Conferences.

² Appendix B to the Rules of Practice for the Commercial Division is available at [https://www.nycourts.gov/LegacyPDFS/RULES/trialcourts/202.70\(g\)%20-%20Rule%2011-g%20\(attachment\).pdf](https://www.nycourts.gov/LegacyPDFS/RULES/trialcourts/202.70(g)%20-%20Rule%2011-g%20(attachment).pdf)

2. For information regarding non-Commercial Division Preliminary Conferences, please click the following link: [Preliminary Conference Part](#)
3. For more information regarding non-Commercial Division Compliance Conferences, please click the following link: [Compliance Conference Part](#).
4. For **COMMERCIAL DIVISION PART D** Preliminary Conferences and Compliance Conferences, the parties shall obtain the Commercial Division Preliminary Conference Order and the Commercial Division Compliance Conference Order from the court website.
 - (a) All fields of the Preliminary Conference Order and the Compliance Conference Order must be completed by the parties. **All parties must participate in completing the Order.**
 - (b) The completed Order must be signed by all parties.
 - (c) The completed and signed Preliminary Conference Order and Compliance Conference Order shall be emailed to the Part at qnsdptd@nycourts.gov **no later than 2:00p.m. on the scheduled date of the Preliminary Conference and the Compliance Conference.**
 - (d) The parties should review the So Ordered Preliminary Conference Order and So Ordered Compliance Conference Order in the NYSCEF system for any changes made to the Order by the Court.
 - (e) In the event the parties can not agree in completing any of the fields on the Preliminary Conference Order or the Compliance Conference Order, plaintiff's counsel must email the Court (and include all parties on the email) at qnsdptd@nycourts.gov **no later than 2:00p.m. on the scheduled date of the Preliminary Conference or the Compliance Conference**, state that the parties need the assistance of the Court in completing the Preliminary Conference Order or the Compliance Conference Order, and request a virtual conference. A virtual conference on **Microsoft Teams** will be scheduled by the Court. **All parties must appear at the virtual conference** and possess full knowledge of the facts of the case and authority to resolve all issues.

VIRTUAL CONFERENCES – GENERAL PROTOCOL AND DECORUM

1. All lawyers and self-represented litigants should identify themselves at the beginning of each appearance.
2. **Recording the proceeding by anyone other than the Judge, Court Reporter, or other Court personnel, is PROHIBITED.**
3. Courtroom rules apply. Speak one at a time and do not interrupt other speakers, including the Judge.
4. All microphones should be muted when not in use.

5. All appearing persons (attorneys, litigants, and witnesses) must appear via video, with cameras engaged.
6. If an individual is unable to appear via video, that individual should contact the Part by email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov, or call the Court at (718) 298-1005.
7. The parties are encouraged to log on prior to the scheduled start time of the conference to ensure proper and punctual appearance.
8. Lawyers, litigants, and witnesses should appear from an office or quiet space. Background noise is detrimental to the conditions necessary to ensure an accurate transcript, and diminishes the decorum of the proceeding.
9. **ALL PARTIES ARE TO MAINTAIN THE PROFESSIONAL DECORUM OF AN IN-PERSON COURTROOM.**

TRIALS

1. All parties appearing for trial (or a Hearing) must be familiar with the case, ready, and authorized to participate in settlement discussions and/or proceed to trial.
2. Prior to, but not less than one week before, the commencement of a trial, each party shall submit to the Court **hard copies** of (a) marked Pleadings, (b) any Bill(s) of Particulars, (c) a witness list [including their availability], (d) an Exhibit list, (e) any Notice to Admit, with Response(s); (f) deposition transcript(s) (only if the submitting party intends to read from any portion of the transcript at trial), and, in the case of a jury trial, (g) a proposed verdict sheet, and a jury instruction request listing all requested Pattern Jury Instructions from the most current year, or Jury Instructions in Commercial Litigation. **The Witness list, proposed verdict sheet and jury instruction request must contain the caption, Index number, and the submitting party's appearance.**

Parties must also provide a copy of the aforementioned to all other parties.

3. Motions *in limine* (**non-Commercial Division cases**) – On the first appearance in the Part for trial, any party intending to make a motion *in limine* shall submit a **brief** affirmation setting forth the nature of the application and any supporting statutory or case law. The party shall furnish the Court with the original affirmation, and provide all parties with a copy.

Any opposition to the motion *in limine* shall be submitted to the Court, and a copy provided to all parties, the next business day following submission of the motion *in limine*.

4. The trial will be conducted on a continuous daily basis until its conclusion, unless otherwise instructed by the Court. Tort actions are generally bifurcated. The Court expects that any

trial on damages will follow immediately after a verdict in favor of the complaining party on liability.

5. **No adjournments or delays during trial will be permitted absent exigent circumstances.**
6. Counsel and any self-represented litigant shall advise the Part by email one month prior to the trial, if the services of any foreign language interpreter is required for any party or witness, and if so, what language(s), and if any accommodation(s) and/or special equipment is required for any attorney, party or witness.

VIRTUAL BENCH TRIALS

For Virtual Bench Trial Protocols and Procedures please click this link: [Virtual Bench Trial Protocols and Procedures Manual](#).

SUMMARY BENCH TRIALS AND SUMMARY JURY TRIALS

For information on Summary Bench Trials please click this link: [Summary Bench Trials - 11 JD Queens Civil Supreme | NYCOURTS.GOV](#).

For information on Summary Jury Trials please click this link: [Summary Jury Trial - 11JD Queens Supreme Civil | NYCOURTS.GOV](#)

ALTERNATIVE DISPUTE RESOLUTION (ADR)

1. If, at any point, the parties decide that they would benefit from Alternative Dispute Resolution (ADR), they should write a joint letter to the Court asking to be referred to ADR.
2. The Court may also order parties to ADR without the parties' request or consent.
3. For more information regarding ADR, please contact the ADR Coordinator at qscadr@nycourts.gov , or visit the following link: [Alternative Dispute Resolution](#).

SETTLEMENTS AND DISCONTINUANCES

1. If an action is settled, discontinued, or otherwise disposed of, the parties must immediately notify the Court by submission of a stipulation of settlement or discontinuance to qscpart7@nycourts.gov or qnsdptd@nycourts.gov .
2. All stipulations of discontinuance must be accompanied by proof of filing of same with the County Clerk and payment of the appropriate fee pursuant to CPLR § 8020(d)(1).
3. The moving party on any pending motion that remains outstanding MUST e-file a letter or stipulation withdrawing the pending motion via the NYSCEF system **AND** email the letter or stipulation to qscpart7@nycourts.gov or qnsdptd@nycourts.gov .

SUBPOENAS

A party seeking to have a subpoena signed by Acting Justice McGregor Mundy must submit the subpoena, with a **brief (no more than 2 pages)** accompanying affirmation of explanation, to the Part email at qscpart7@nycourts.gov or qnsdptd@nycourts.gov .

INFANT COMPROMISE ORDERS

1. Applications for Infant Compromise Orders shall be made pursuant to CPLR § 1207(a) and shall be supported by the documentation required under CPLR § 1208 and 22 NYCRR § 202.67. Applications submitted without the appropriate documentation will be denied.
2. Infant compromise hearings will be scheduled by the Court and the parties will be notified of the hearing date by email. **In-person appearance is required.**
3. Instructions for filing Infant's Compromise and the checklist of documents can be found at the following link: [Infant Compromise Instructions](#).

UNCONTESTED MATRIMONIALS

1. If corrections are requested on e-filed cases, please email the Part at qscpart7@nycourts.gov to advise that the documents have been uploaded to NYSCEF.

2. If corrections are requested on non-e-filed cases, all corrections must be sent to Chambers by **regular mail only**. Do NOT mail papers to the Matrimonial Clerk's Office.

Parties will be allowed **thirty (30) days** to submit corrections. The failure to timely submit corrections may result in dismissal of the action.

COMMERCIAL DIVISION CASES

1. The Pre-Trial Conference calendar and the Trial calendar will be held on **Mondays, at 10:00 a.m.**, unless otherwise directed by the Court.
2. The parties shall comply with the relevant pre-trial conference and trial rules as required by 22 NYCRR §202.70, and **must supply the Court, at the time of the Pre-Trial Conference, with a copy of the marked pleadings.**
3. Any party intending to make a motion *in limine* shall fully comply with Rule 27 of 22 NYCRR §202.70. **Motions in Limine which are not timely made will not be considered by the Court.**
4. Pursuant to Rule 30 of section 202.70(g) of the Uniform Rules for the Supreme and County Courts (the Rules of Practice for the Commercial Division), following the filing of a Note of Issue, the parties in every case pending in the Commercial Division **must confer and file a request to proceed to a court-ordered mandatory settlement conference** (MSC) pursuant to one of the four tracks set forth in Rule30³

³ Unless exempted as set forth in Rule 30 of section 202.70(g) of the Uniform Rules for the Supreme and County Courts (the Rules of Practice for the Commercial Division).

Following the filing of a Note of Issue, the Part Clerk will notify the parties by letter of the requirement to request a MSC. The parties must thereafter e-file, and email the Part at qnsdptd@nycourts.gov , within ten (10) days of the date of notification by the Part Clerk, either a joint request or separate requests for a MSC, with a statement of preferred procedure for a MSC track.

The failure to comply with the Part Clerk's letter may delay this action being scheduled in the assigned Commercial Division Part's Pre-Trial and/or Trial calendar(s)..

5. Where a party is represented by counsel, an attorney fully familiar with the case shall appear at the Pre-Trial Conference.
6. A firm trial date will be set at the Pre-Trial Conference. Any application for an adjournment of the trial must be made in person, at least one (1) week before the date set for trial, and will only be granted upon a showing of good cause.

(8/30/23)