

HONORABLE PATSY GOULDBORNE, J.S.C.
SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY CIVIL TERM
851 Grand Concourse, Bronx, New York 10451
IAS PART 13 RULES

Court Attorney: Marlon Bryan, Esq.
Part Clerk: Darius Rhodes
Courtroom: IAS-13 - Room 706

***EFFECTIVE APRIL 2023* Please note that Part 13 will be transitioning.**

ALL POST- NOTE OF ISSUE APPEARANCES IN PART 13 WILL BE HELD IN-PERSON

Recording any Court proceedings, in person or virtual, is strictly prohibited.

DISCOVERY CONFERENCES:

In compliance with statewide Administrative Orders, the parties are expected to complete outstanding discovery on pending matters using every available technology (including paper discovery, depositions and IMEs, if possible), and must make every effort to resolve discovery disputes without the need for Court intervention (see generally, 22 NYCRR 202.7[c]).

In compliance with 22 NYCRR 202.23, counsel for all parties shall consult prior to a preliminary or compliance conference about (1) resolution of the case, in whole or in part; (2) discovery, and other issues to be discussed at the conference; (3) the use of alternative dispute resolution to resolve all or some of the issues in the litigation; and (4) any voluntary or information exchange of information that could assist with early settlement of the case. Counsels must make a good faith effort to reach agreement on these matters prior to conference.

Status & Compliance Conference appearances will be held in the following manner:

On or before the Status/Compliance Conference date:

Status and compliance conference dates function as control dates. Conferences without a disposition, such as a stipulation, will be administratively adjourned. In order to hold a conference, parties must submit a request to be heard on discovery disputes in compliance with 22 NYCRR 202.23.

- 1) If the parties agree on all issues relating to outstanding discovery, the parties shall e-file and e-mail a fully executed stipulation to BxSupCiv-IA13@nycourts.gov. If acceptable, the stipulation will be approved and sent to the Clerk for uploading.**

- 2) **If the parties cannot agree on outstanding discovery issues despite good faith efforts to resolve the dispute without Court intervention**, the parties shall e-file and/or e-mail a request for a virtual conference to BxSupCiv-IA13@nycourts.gov. Include the case name, index number, and a brief description of the issue. If applicable, also include a copy of the most recent compliance conference order/stipulation. Please make sure to copy all other parties in the case on any e-mail sent to the Court.
- 3) **If all parties agree that discovery is complete**, the parties shall e-file and e-mail a stipulation to BxSupCiv-IA13@nycourts.gov on or before the scheduled Status/Compliance conference date. The stipulation must certify that all discovery is complete and provide for the filing of the Note of Issue. The Court will provide a date by which the Note of Issue must be filed, and the stipulation will be sent to the Clerk for uploading. Plaintiff shall not file a note of issue until all discovery is complete and certified as such by order of this court. Premature filing may result in the note of issue being vacated or the imposition of other sanctions.
- 4) All virtual appearances will be conducted using Microsoft Teams platform.
- 5) Requests for EBT rulings must be made before the assigned *ex-parte* Judge and not Part 13.

Pre-Trial and Settlement Conferences:

Pre-Trial Conferences

After the Note of Issue has been filed, a pre-trial conference with the Court may be obtained by uploading to NYSCEF a request that includes caption, Index number, the available insurance coverage, using the label ***“LETTER/CORRESPONDENCE TO JUDGE”***.

Every action is scheduled for a virtual Pre-Trial/Settlement conference based on Note of Issue date, **unless** both sides agree an earlier settlement conference would be valuable. In the “additional documentation field”, use the label ***SETTLEMENT CONFERENCE REQUEST*** and upload a stipulation or letter indicating that plaintiff and defendants’ counsel consent to a settlement conference with the Court.

If a matter is scheduled for a Pre-Trial Conference, the parties will receive

an email at the email addresses provided by NYSCEF with a link to a virtual conference to be conducted on Microsoft Teams. Appearing counsel must be authorized to negotiate settlement and/or to resolve any outstanding discovery issues.

Pursuant to Uniform Rule 202.26, a representative from each office fully familiar with the case and authorized to make binding stipulations must appear in order to conference and facilitate settlement of the action. Plaintiff(s) and claims representatives must be available by phone at the time of the conference.

Counsel for Plaintiff must contact all parties in order to confirm that all counsel are aware of the conference.

Failure to appear by electronic means may result in the imposition of sanctions and the case may be deemed a default under CPLR 3404 and Uniform Rule 202.27.

SETTLEMENT CONFERENCES

Part 13 conducts its settlement conference/ADR calendar **in-person**. Please adhere to the following guidelines to request a settlement conference:

1. Parties shall confer with one another and come up with an agreeable date and time and email the request to BxSupCiv-IA13@nycourts.gov. In the request, please include the case name, index number, the names and contact phone number for the attorneys. ***In addition, please disclose the insurance policy limits for the defendant(s).**
2. Make sure that all parties are included on any e-mail communication to the Court.

Anyone appearing at a settlement conference is expected to be fully familiar with the file, have full authority to resolve the case, and/or immediate access to their client to obtain such authority. Plaintiff(s) and claims representatives should be available by phone at the time of the conference

MOTIONS:

Summary Judgment motions: must be filed within sixty (60) days after the filing of the Note of Issue.

Statement of Material Facts: Every motion for summary judgment **MUST** be accompanied by a Statement of Material Facts which satisfies the requirements of Uniform Rule 202.8-g. The annexed statement may be a short and concise statement of the material facts to which the moving party contends there is no genuine issue to be tried, in numbered paragraphs, with citations to evidence submitted in support or opposition to the motion. Papers opposing the motion for summary judgment may include a correspondingly numbered statement in response. **Failure to include a Statement of Material Facts or to fully comply with Uniform Rule 202.8-g may result in the motion being denied without prejudice to renewal.**

All motion papers must be e-filed to NYSCEF. No hard copies will be accepted.

All motions will be decided on submission unless scheduled for oral argument-conference before the Court or at the request of either party. (Uniform Rule 202.8-f) Parties will be notified by the Court regarding a virtual appearance for oral argument. Decisions will be available on NYSCEF.

Where appropriate, proposed orders should be submitted with the motion, pursuant to Uniform Rule 202.8-a.

Video Exhibits: Video exhibits that cannot be uploaded to NYSCEF should be sent by mail to Part 13, on a clearly labeled CD or USB drive which contains the Index Number, Motion Sequence, and Exhibit letter/number. In NYSCEF, a placeholder exhibit should be created indicating that a hard copy of the video was sent, along with an affidavit of service of the video to opposing counsel.

Discovery: Discovery motions are highly discouraged. Pursuant to 22 NYCRR 202.20-f, discovery disputes should be resolved through informal procedures, such as conferences, to the maximum extent possible. Prior to seeking a conference with the Court, parties must make good faith efforts to resolve disputes without Court intervention.

Orders to Show Cause: All parties that participate in NYSCEF will be deemed served with the signed OSC upon uploading of a copy of the OSC signed by the Judge. The attorney's affirmation for the moving party on an OSC **MUST** include e-mail addresses for all parties that are required to be served with respect to the relief requested in the OSC.

Where appropriate, movant shall submit a proposed Order to expedite relief. Proposed Orders should be e-filed and emailed to the Law Clerks in Word format.

Please contact the Court immediately by uploading notice or stipulation to NYSCEF if there have been any developments in a case that would affect the resolution of a pending motion (i.e., settlement, withdrawal, etc.). Use the “*STIPULATION WITHDRAWING MOTION*”, “*STIPULATION/DISCONTINUANCE (POST RJJ)*”, “*STIPULATION OF DISCONTINUANCE (REQUEST TO SO ORDER)*”, “*LETTER/CORRESPONDENCE TO JUDGE*”, or another appropriate label.

Adjournment Stipulations and Requests:

Stipulations to adjourn the return date of a motion must be made in writing and submitted to the Court. No more than three stipulated adjournments, for a total period of 60 days, shall be submitted without prior permission of the Court.

Regardless of the agreed upon adjourn date on the parties’ stipulation or request, the Court will only adjourn motions for 60 days at a time.

Upon expiration of the first 60 days, parties may stipulate to another 60-day adjournment, up to 3 adjournments. For any further adjournments, the parties must seek leave from the Court to further adjourn the return date if necessary.

All substantive submissions must be uploaded to NYSCEF. Please individually upload, identify, and label submissions and exhibits by content (i.e., “plaintiff’s deposition transcript”, “police report dated...”). **Attorneys are considered TO BE ON NOTICE OF ANY AND ALL documents uploaded to NYSCEF, including “Court Notices”, “so ordered stipulations”, or court decisions.**

Please do not call chambers to inquire about a decision or the scheduling of a case. Review NYSCEF and E-courts and, if need be, thereafter, contact the Motion Support Office or the Clerk of the Part. Only call Chambers under exigent circumstances and the preferred mode of communications with Chambers is via NYSCEF.

Instead of making a motion for Consolidation or Joint Trial, the parties may stipulate and submit a proposed Order. See forms in the attached appendix.

INFANT COMPROMISES

Use the proper format. If no action has been commenced the proceeding is called a Petition. When an action has been filed, the caption of the proposed

compromise must match the caption of the action.

Where there is more than one infant plaintiff, a separate ICO must be filed for each with a separate filing fee.

Once the Infant Compromise Order and necessary documents have been submitted to the Clerk's Office in Room 217, the Court shall review the Order and documents, and shall approve and schedule a hearing. Justice Gouldborne's chambers will schedule an **in-person** hearing and inform the parties via email.

A proposed order and supporting documents must be e-filed to NYSCEF as INFANT COMPROMISE ORDER (PROPOSED) with the following supporting documents, signed and dated. The guardian's and infant's affidavits must be notarized.

- Attorney Affirmation
- Guardian Affidavit
- Infant Consent Affidavit (if 14 years or older)
- Physician's Affirmation

Additional exhibits may include birth certificate, hospital records, police accident report, offer letter, lien letter, proof of policy limits and excess insurance.

The infant's full name (other than initials) and date of birth (other than year) **MUST BE REDACTED** in all e-filed documents. The infant consent affidavit may be signed with initials.

The guardian or attorney's affirmation must state that no previous application for relief sought has been made. The attorney's affirmation must explain why the attorney recommends the settlement and why the Court should approve the settlement. In addition to details about the accident and the infant's injuries, it should address (a) whether there are outstanding medical bills or liens, (b) the amount of available insurance, including excess insurance, and (c) whether the guardian or others involved in the accident also received settlements (amount paid and their injuries, if any).

The guardian's affidavit must state their relationship to the infant and whether the infant resides with guardian. The affidavit should specifically

set out the medical treatment received by the infant, names of physicians, and charges incurred. The guardian must waive their claim/cause of action for loss of services.

The physician's affirmation must address whether they reviewed the infant's prior medical records along with their recent examination of the infant. The physician's affirmation should specify in detail the infant's injuries resulting from the accident, treatment the infant received, and whether they have made a full recovery or require additional treatment.

The proposed ICO should provide the name and address of a savings bank (not commercial bank) in Bronx County in which the funds will be deposited.

Please note that the infant(s)' appearance will not be waived unless, in the interest of justice, there is a valid reason to do so. Plaintiff's counsel must make all arrangements to have the infant and the parent/natural guardian appear on the hearing date.

Requests for EBT rulings must be made before the assigned ex parte Judge and **not Part 13.**

Trial subpoenas should NOT be submitted to the Part, but rather, must be submitted in STP.

Do not contact chambers (email or phone) to inquire if you have an appearance. Contact opposing counsel or the Clerk in the Part.

All actions assigned to IAS Part 13 and not yet in NYSCEF must be converted ASAP. The Court will not entertain **any** applications on any "paper" action until the action is converted to electronic e-file format.

Revised August 2023

Appendix:

Proposed Consolidation Order must be accompanied by a stipulation signed by attorneys for all appearing parties in all affected actions. Be sure to print, sign, and include phone number and email address in the stipulation. Consolidation is appropriate when no party is both a plaintiff and defendant.

Proposed Joint Trial Order must be accompanied by a stipulation signed by attorneys for all appearing parties in all affected actions. Be sure to print, sign, and include phone number and email address in the stipulation.

At IAS Part 13 of the Supreme Court of the State of New York, held in and for the County of Bronx, at the Courthouse located at 851 Grand Concourse, Bronx, New York 10451 on the ____ day of _____, 20____ .

PRESENT:

HON. PATSY GOULDBORNE,
JUSTICE OF THE SUPREME COURT

-----X

CONSOLIDATION ORDER

Plaintiff(s),

Index No / E

-against-

Defendant(s).

-----X

An application having been made by stipulation, NYSCEF Doc. # for an order of consolidation and due deliberation having been had thereon, it is hereby

ORDERED that the application is granted, and the above captioned action shall be consolidated with:

1) v. Index No. , County

2) v. Index No. , County

under Index No. _____, and the consolidated action shall bear the following caption:

-----X

Plaintiff(s),

-against-

Defendant(s).

-----X

; and it is further

ORDERED that the pleadings in the actions hereby consolidated shall stand as the pleadings in the consolidated action, and it is further

(The following italicized decretal paragraph is not applicable if **ALL** cases are filed in Bronx Supreme Court)

***ORDERED** that the Clerk of the Court of County, upon receipt of a certified copy of this ORDER and upon payment of the proper fees, shall transfer to the Clerk of the Supreme Court, Bronx County, all papers on file in the action/proceeding bearing the caption v. , Index No. ; and it is further*

ORDERED that upon service on the Clerk of this Court of a copy of this ORDER with Notice of Entry, the Clerk shall consolidate the papers in the actions hereby consolidated and shall mark the records to reflect the consolidation, and it is further

ORDERED that a copy of this ORDER with Notice of Entry shall also be served upon the Clerk of the Motion Support Office (Room 217), who is hereby directed to mark the Court's records to reflect the consolidation.

ENTER:

PATSY GOULDBORNE, J.S.C.

At IAS Part 13 of the Supreme Court of the State of New York, held in and for the County of Bronx, at the Courthouse located at 851 Grand Concourse, Bronx, New York 10451 on the ____ day of _____, 20____ .

PRESENT:

HON. PATSY GOULDBORNE,
JUSTICE OF THE SUPREME COURT

-----X

JOINT TRIAL ORDER

Plaintiff(s),

Index No / E

-against-

Defendant(s).

-----X

An application having been made by stipulation, NYSCEF Doc. # for an order of joint trial and discovery, and due deliberation having been had thereon, it is hereby

ORDERED that the application is granted, and the above captioned action shall be jointly tried with:

_____, Index No. _____, _____ County,
_____, Index No. _____, _____ County,
_____, Index No. _____, _____ County,

; and it is further

(The following italicized decretal paragraphs are not applicable if **ALL** cases are filed in Bronx Supreme Court)

ORDERED that the Clerk of the Court of County, upon receipt of a certified copy of this ORDER and upon payment of the proper fees, shall transfer to the Clerk of the Supreme Court, Bronx County, all papers on file in the action/proceeding bearing the caption v.

Index No.

; and it is further

ORDERED *that the Clerk of the Supreme Court, Bronx County, upon receipt of a copy of this ORDER with Notice of Entry, shall, without further fee, assign an Index Number to the file transferred pursuant to this ORDER; and it is further*

ORDERED that a copy of this ORDER with Notice of Entry shall be served upon the Clerk of the Motion Support Office (Room 217), who is hereby directed to mark the Court's records to reflect this joint trial ORDER, and it is further

ORDERED that the Clerk shall assign both/all actions to IAS Part _____, based on the earliest RJL, and it is further

ORDERED that upon filing of the Notes of Issue and Statements of Readiness in each of the above actions, and upon service of a copy thereof with Notice of Entry on the Clerk of the Motion Support Office, Room 217, said Clerk shall place the aforesaid joined actions upon the trial calendar for joint trial; and it is further

ORDERED that the parties shall upload this joint trial order under both index numbers.

ENTER:

PATSY GOULDBORNE, J.S.C.