

Procedures

A. Office of the Panel

The Litigation Coordinating Panel (hereinafter "the Panel") is co-located in the Chambers of the Presiding Justice Denise A. Hartman, 16 Eagle Street, Albany, New York 12207.

Papers and proceedings before the Panel shall be filed utilizing the New York State Courts Electronic Filing system (NYSCEF) under the Litigation Coordinating Panel.

In addition, a copy of the documents filed shall also be filed by email directly to the Presiding Justice at dahartma@nycourts.gov.

B. Applications

1. When related actions are pending in more than one judicial district, an application may be made by any of the parties to a pending case or by the trial court sua sponte to the Panel for the issuance of an order of coordination pursuant to Section 53.1 of the Rules of the Chief Judge.
2. The Justice before whom a related action is pending or an Administrative Judge in whose district such an action is pending may also raise before the Panel the question of coordination of related litigation pursuant to Section 53.1. The Justice or Administrative Judge shall do so by submission of a letter application directed to the Panel. The letter shall, to the maximum extent possible, identify all related actions by caption, index number, and county where the actions are pending and the attorneys for all parties therein. The Panel may also raise the question of coordination sua sponte by an order requiring all parties to show cause why coordination should not be directed.
3. The Panel shall transmit to counsel for all parties in related actions, all assigned Justices therein, and all Administrative Judges in counties in which a related action is pending a copy of a letter application of the Justice or Administrative Judge, or, where the Panel raises the issue on its own, its order to show cause. The Panel shall also advise counsel of the schedule for the submission to the Panel of affidavits and memoranda on the issue of coordination.
4. A party to a related action may apply for an order of coordination. Such an application shall be brought on by notice of motion or, if necessary as a result of exigent circumstances or other reasons, by order to show cause, supported by affidavit, on notice to all parties in all matters claimed to be related. The motion or order to show cause shall be brought under the caption of the action, but shall be returnable before the Panel. In applications brought on by notice of motion, the applicant shall refer to this subdivision of the Procedures of the Panel in lieu of a

return date. A copy of the moving papers shall also be submitted by the moving party to the Justice to whom each matter claimed to be related is assigned. Upon the electronic filing of a motion or an order to show cause with the Panel by the NYSCEF system, the Panel shall issue a briefing schedule on the application. In cases in which the parties consent to issuance of an order of coordination, an application may be made by letter accompanied by a stipulation of counsel for all parties. A copy of said letter shall be served upon the Justice assigned to each case to be coordinated.

5. Papers submitted in support of coordination shall identify, by caption, index number, courts and county in which the action is pending, as well as all cases with respect to which coordination is sought and the names and addresses of all counsel of record therein. The identification of the cases shall appear at the top of the moving papers after the caption of the case in which the application is being made unless this format would be unduly cumbersome, in which event the listing of the additional pending cases may be made an appendix to the application. The papers shall also address the standards for coordination set forth in Section 53.1 (b) (3).
6. The papers on an application shall consist of papers in support of coordination, in opposition, and in reply by the proponents. No sur-reply papers shall be submitted without advance permission of the Panel.
7. With respect to each application, the Panel shall assign a Panel case number. If and when the Panel issues an order of coordination, the Panel shall direct the County Clerk of the county where coordination is to take place to issue a no-fee index number under the assigned name of the coordination to be used for all future pleadings, motions and orders, i.e., In Re (named) Litigation.
8. An order to show cause may be signed by a single Justice of the Panel on the Panel's behalf.

C. Oral Argument

The Panel in its discretion may schedule oral argument of an application for coordination. The Panel shall provide timely notice thereof to counsel in all cases. If practical and convenient, the Panel may direct that argument take place, in whole or in part, by telephone or by means of video conferencing technology.

D. Stay

Pending a decision on an application, the Panel, or, if circumstances require, a single Justice thereof on the Panel's behalf, may issue a stay of proceedings in any or all of the actions for which coordination is sought. The Panel shall promptly inform the Justice assigned to each related action of the issuance of the stay. Absent such a stay, the

pendency of an application before the Panel shall not affect proceedings in the actions that are the subject of the application.

E. Decision and Order

1. Issuance of Decision and Order. Within 30 days from the submission of reply papers on an application or from oral argument, whichever is later, the Panel shall issue a written decision granting or denying the application and stating the reasons therefor. If the Panel determines to grant the application, it shall, within the same period, issue an order of coordination identifying by caption, index number and county in which the action is pending all actions that shall be coordinated; the number of Coordinating Justices; and the county or counties in which the coordination proceedings shall take place. The order may direct coordination of, or otherwise address, other related actions subsequently filed or not then before the Panel. The Coordinating Justice or Justices shall be appointed pursuant to Section 53.1 (c)(1) of the Uniform Rules for the Trial Courts. The Panel shall promptly (i) transmit a copy of the Panel's decision and order to each Justice assigned to an action to be coordinated and the Administrative Judge of each county in which coordination of proceedings is to take place and (ii) cause the decision and order to be filed electronically on the Panel's e-filing system.
2. Transfer of Files. The Panel will provide a mechanism for the transfer of all pending related actions that are to be coordinated pursuant to decision and order of the Panel. Specifically, the order of the Panel shall provide for prompt service of a copy of the Panel's decision and order upon the Clerk of each court in which an action to be coordinated is pending and upon the Clerk of the court or courts in which the coordination proceedings shall take place and said order shall direct each Clerk to forward the file in each action to be coordinated to the Clerk of the county in which coordination proceedings with respect to that action are to take place. Where the decision and order of the Panel direct that there shall be coordination of actions subsequently filed, the order will provide a similar mechanism to assure expeditious transfer of files to the county in which coordination proceedings are occurring.
3. Administrative Nature of Decision and Order. The determinations of the Panel are purely administrative in nature. Hence, no appeal lies therefrom and none is provided for in Section 53.1.

F. Subsequently-Filed Actions and Pending Actions Not Included in the Panel's Order

1. The following procedures shall apply to any action that is related to actions being coordinated pursuant to an order of the Panel and that (i) was commenced

subsequent to the issuance of said order, whether the order expressly provides for coordination of such subsequently-filed actions or not, or (ii) was pending at the time the application for coordination was submitted to the Panel but was not included in that application. If a party to any such action seeks coordination of that action on the basis of the Panel's order, counsel for said party shall, promptly after filing of an appearance by counsel for defendants, serve a notice requesting coordination and a copy of the decision and order of the Panel upon all other counsel in the action, the Justice assigned thereto, and the Coordinating Justice. The action shall proceed as a coordinated matter in accordance with the directions of the Panel's decision and order unless, within 21 days from said service, an objection is raised by counsel for a party to the action that that case does not properly fall within the ambit of the Panel's decision and order. In the event such an objection is raised, an application for an order directing coordination shall promptly be made to the Panel by the proponent of coordination in accordance with the procedures set forth in Paragraph B (4) hereof.

2. If no objection is filed within the period set forth in subdivision 1 of this Paragraph, then within 21 days thereafter or, if an objection is timely filed, within 21 days after a determination by the Panel that coordination of the action in question shall take place in accordance with a previous decision and order of the Panel, counsel for the proponent shall serve upon the Clerk of the court in which such action is pending, the Justice assigned to such action, and the Coordinating Justice (i) a copy of the original decision and order of the Panel and (ii) either an affidavit setting forth that 21 days have passed without objection to coordination having been raised as provided herein or a copy of a decision and order of the Panel resolving pursuant to this paragraph any dispute about coordination of the action. The Panel shall provide for expeditious transfer of the file by the Clerk of the court of origin to the court in which the coordination proceedings are taking place.

G. Termination

Pursuant to Section 53.1 (d) of the Uniform Rules for the Trial Courts, the Coordinating Justice may terminate coordination, in whole or in part, upon completion of coordination or upon a determination that the purposes of Section 53.1 can be best advanced by termination.

H. Effective Date

These procedures shall be effective as of the date set forth below.

Dated: Albany, NY
May 14, 2024