

**INDIVIDUAL PART RULES OF THE
HONORABLE CRAIG STEPHEN BROWN**
County Court Judge, Acting Supreme Court Justice
County Court of the County of Orange
Supreme Court of the State of New York
285 Main Street
Goshen, New York 10924
Facsimile: 845-476-3489

STAFF

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I. Communications with the Court

A. Correspondence:

1. Correspondence to the Court shall, without exception, be copied to all counsel and/or to any self-represented parties who have appeared in the action. Correspondence between counsel and/or self-represented parties shall not be copied to the Court, unless the Court directs otherwise. All correspondence must bear the case name and Index, Indictment, or Superior Court Information Number associated with the action and indicate that a copy of the correspondence was sent to all other counsel and/or self-represented litigant(s). For all cases that are commenced through e-filing, correspondence must be electronically filed and faxed or mailed to Chambers. **Absent prior approval, parties are not permitted to send facsimile transmissions to the Court that exceed ten (10) pages.**
2. If there is a discovery issue or some other issue requiring judicial intervention, notify the Court in writing so that a conference may be scheduled. Telephone conferences will be held between 12:30 p.m. and 1:45 p.m. or after 4:30 p.m.

B. Telephone Calls:

Except as set forth below, telephone calls to the Court staff should occur only in situations requiring immediate attention and regarding issues that cannot otherwise be addressed by correspondence. Every effort should be made to limit telephone calls to the Court staff. **Requests for adjournments will NOT be entertained by telephone.**

C. Facsimile transmissions:

The facsimile number for the Court is 845-476-3489. Neither Chambers nor the clerk will accept faxed copies of papers that otherwise must be filed in original form with the Office of the Clerk (such as objections, petitions, proofs of service, motions, oppositions to motions, replies, proposed Orders, and documents to be So-Ordered). A facsimile cover sheet is required for each facsimile sent and the cover sheet must identify the case name, index number (or Indictment/SCI Number), and the number of pages attached. No facsimile should exceed ten (10) pages in length, including cover sheet, without consent of the Court. All faxes to the Court must be sent contemporaneously to all other parties, and the originals of the same with proof of contemporaneous transmittal to all parties must be sent to the Court via regular mail.

D. E-Mail:

Unless specifically approved or directed by the Court in advance, the Court does not accept legal papers or correspondence of any kind by e-mail transmission, unless the email copy simply is a courtesy copy to the Court. Providing a courtesy copy via email does NOT obviate the requirement that a hard copy be provided to the Court as a “working copy.”

II. Calendar Call & Conferences

A. General Rules:

1. The Court’s regular calendar is called at 9:15 a.m. Counsel who are scheduled to appear in another Part should notify the Court and the opposing party the day prior; and so long as all parties are timely, the Court will attempt to accommodate counsel. Only counsel (or self-represented parties) who are fully familiar with a case are to appear for court appearances. **Do not send associates or “of counsel” attorneys who are not fully familiar with a case to court appearances.** Pursuant to § 130-2.1 of the Rules of the Chief Administrator of Courts, the Court may impose financial sanctions and award costs and reasonable attorney fees against any attorney who, without good cause, fails to appear at a time and place scheduled for an appearance in any action or proceeding. Be advised, that pursuant to § 202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party failing to appear at a scheduled call of a calendar or at any scheduled conference, the Court may grant judgment by default against the non-appearing party.

B. Bench Decisions:

In certain instances, the Court will render a decision from the bench. Any party seeking a written order shall submit to the Court a proposed order supported by a copy of the transcript of the proceeding at which the bench decision was rendered. The signed order will be filed in the Orange County Clerk's Office by the Court.

C. Preliminary Conference:

1. The Part Clerk will notify the party filing the RJI the date on which the Preliminary Conference will be conducted. The party who files the RJI shall give written notice to all other parties of the conference date, and shall send a copy of such notice to the Clerk via facsimile. Counsel and parties are referred to 22 NYCRR §202.12(c) and/or §202.16 for specific requirements concerning the Preliminary Conference and the matters to be considered. Appearances at Preliminary Conferences are **mandatory**. Discovery may be expedited in third party actions, joint actions, and consolidated actions in an effort to avoid undue delay. Parties are expected to abide by all provisions of the preliminary conference order issued and a failure to do so may result in sanctions against the recalcitrant party.

2. Foreclosure Actions:

a. Contested: When a contested matter is released from the Foreclosure Settlement Conference Part, the Court shall notify the plaintiff of the Preliminary Conference date, and the plaintiff shall notify all appearing parties of the conference date. The Court at the Preliminary Conference will direct dates for discovery and for the filing of motions.

b. Uncontested (default): When an uncontested matter is released from the Foreclosure Settlement Conference Part, plaintiff shall file its Note of Issue within ten days and its application for an Order of Reference within 30 days. If either the Note of Issue or the application for Order of Reference are not timely filed, an appearance shall be scheduled, and the action shall be subject to dismissal without prejudice.

D. Discovery Disputes:

Every attorney shall exert a continuing effort to work cooperatively and courteously with all adverse parties towards the goal of completing all discovery expeditiously, efficiently and in the spirit of avoiding unnecessary motion practice and court intervention. Discovery disputes should be addressed between parties prior to the Compliance Conference as required by Uniform Civil Rules for Supreme Court Rule 202.7. Prior to the filing of any discovery motion, the potential movant must notify the court in writing, with a copy to all parties, setting forth the relief sought and the basis for the requested relief. The Court will then schedule a conference, if deemed necessary, the purpose of which will be to resolve the issues to be addressed in the motion without the necessity of a written

motion. All discovery-related motions will automatically be converted into a conference at which time the issue will be resolved. Parties are advised that the failure to cooperate in discovery may subject them to sanctions. The parties are not to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court.

E. Compliance Conference:

The Court will conduct a Compliance Conference after the date by which disclosure was to be completed, as directed at the Preliminary Conference. The purpose of a Compliance Conference is for counsel and pro se litigants to report to the Court that pre-trial discovery has been completed, and to enable the Court to direct a date by which a Note of Issue or order framing issues shall be filed. Parties should be prepared to provide and schedule dates for mediation, a pre-trial conference, and trial. Parties are not permitted to file a Note of Issue in any action unless permission to do so has been granted by the Court. Motions to strike Notes of Issue are discouraged as matters of outstanding discovery, if any, shall be raised, discussed, and resolved at the Compliance Conference.

F. Pre-Trial/Settlement Conferences:

Pre-Trial and Settlement conferences in any matter may be conducted in Chambers where permitted and appropriate. Failure to appear at a Pre-trial conference or a settlement conference may result in sanctions, including striking the pleadings. A formal motion for relief from the sanctions for such default will be required. Counsel must be prepared to discuss meaningful settlement. Therefore, any counsel in attendance must be fully familiar with the case and must have full authority to settle the matter and resolve any and all disputes. Associates, "of counsel", per diem, and covering counsel will be held to this rule. In any settlement conference, the actual parties in any litigation, or in actions involving insurance carriers, an authorized person or claim representative, must be available either in person or by telephone for the purpose of direct contact with the attorneys engaged in the settlement discussions. The Court may impose financial sanctions and award costs and reasonable attorney fees against any attorney who, without good cause, fails to adhere to this rule.

G. Adjournments:

As a matter of general practice, requests for adjournments of conferences, fact findings, hearings, and trials are discouraged.

Requests for conference adjournments must be made in writing, by facsimile, to the Part Clerk (copied to all counsel and/or pro se parties) no later than 2:30 p.m. the day prior to the scheduled conference. All requests must set forth: 1) the reason why an adjournment is necessary; 2) whether the opposing party(ies) consent(s) or object(s) to the application; and 3) at least three proposed adjourned dates. Dates should be on consent or on notice to all counsel and/or parties. The Part Clerk will advise the party who submitted the written request of the grant or the denial of the request. That party shall immediately give written notice to all counsel and/or parties, and, if the

adjournment is granted, of the new date, copying the Court on such notice. If a conference is scheduled and a motion is pending, counsel for the moving party shall contact chambers for direction on whether to appear. Please note that a request for an adjournment is not effective unless and until it is approved by the Court, even if the adjournment is on the consent of all parties.

All requests for adjournments of a trial, fact finding, or hearing submitted after the scheduling of the trial, fact finding, or hearing will not be entertained absent an extraordinary good cause being demonstrated. The Court will not adjourn any trial dates once selected or agreed to by the attorneys and ordered by the Court absent exigent circumstances.

III. Motions/Orders to Show Cause/Temporary Restraining Orders

A. General Rules:

1. a. Written applications by Notice of Motion may be made returnable on any day. Return and service dates and method of service of Orders to Show Cause shall be designated by the Court and a conformed copy of the signed order will be sent via facsimile or email to the moving attorney.

b. Absent Court permission, motions for summary judgment are to be made within 45 days of filing of the note of issue.

Please note that in accordance with the discretionary authority provided by Civil Practice Law & Rules §3214(b), discovery is NOT stayed during the pendency of any summary judgment motion or motion to dismiss unless the Court orders otherwise.

2. a. All motion papers and Orders to Show Cause must be typewritten, double-spaced, securely bound and entirely legible. If more than one inch thick, please use a paper fastener in lieu of stapling.

b. All exhibits must be legible and labeled with external tab markings.

c. Citations to legal authority must use the official citations only.

3. Length of Papers: Absent express permission obtained in advance from the Court, which shall be granted only upon a showing of good cause, briefs or memoranda of law shall be limited to 30 pages each, and affirmations and affidavits shall be limited to 25 pages each. Papers submitted to the Court in violation of this rule may be disregarded by the Court in deciding the motion, without prior notice to the party who submitted the papers.

Self-addressed stamped envelopes **must** be provided by all parties with all motions and opposition papers except those electronically filed.

4. When seeking a Temporary Restraining Order (other than statutory automatic restraints), the Order to Show Cause shall indicate the request for a TRO on the face page in bold letters and shall include proof of advance notice to the adverse party, or an explanation of why such notice is inappropriate. Except in emergent circumstances, which should be explained, advance notice is deemed to mean at least 24 hours notice.

5. Sur-replies and replies to cross-motions are not permitted without express leave of the Court. If such papers are submitted without leave, they will not be considered.

6. a. Except for motions for contempt, there will be no oral argument on any motion or Order to Show Cause unless directed by the Court. Appearances are generally not required on the return dates of motions or Orders to Show Cause, unless otherwise directed.

b. Parties seeking oral argument of a motion or Order to Show Cause shall indicate, in bold print above the Index Number on the first page of the papers, "Oral Argument Requested." If granted, the party who requested oral argument will be notified of the date and time for argument and shall inform all other attorneys. The Court shall be copied on the notification.

B. Adjournment of Motions:

So long as the matter is not scheduled for trial, motions may be adjourned, on consent, from the original return date to any mutually agreeable date within four weeks of the original return date. The Part Clerk must be notified of any adjourned date prior to the original return date. Any request for a subsequent adjournment on consent must state the current adjourned date and the new return date agreed upon. If the adjournment is granted, the Part Clerk will advise the party who submitted the request of the new return date. That party will immediately advise all other parties in writing; the Court shall be copied on the notice.

Unless the Part Clerk has conveyed that the matter has been adjourned, the parties should not assume that the request has been granted.

No adjournments will be granted if the new return date falls within 90 days of the trial date.

IV. Decisions and Orders

Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice must include an Affidavit of Service and Notice of Settlement for a designated date in accordance with 22 NYCRR §202.48. Orders, etc based on a stipulation placed on the record shall incorporate a copy of the transcript.

V. E-FILING

1. All parties should familiarize themselves with the statewide E-Filing Rules (22 NYCRR §§202.5-b and 202.5-bb). General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@nycourts.gov.

2. a. All actions subject to E-Filing requirements in Judge Brown's part are to be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

b. Parties seeking to file and serve papers in hard copy pursuant to statute or court order must include a copy of the Notice of Hard Copy Submission required by 22 NYCRR §202.5-b(d)(1)(iii). The form is available at www.nycourts.gov/efile.

3. Specific questions relating to local procedures should be addressed to the Chief Clerk's Office at 845-476-3430.

4. Working Copies

A court may require the submission of "working copies" of electronically filed documents. See Uniform Rule §202.5-b(d)(4).

This Part requires working copies for all electronic submissions.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the front cover page of the submission and comply with other requirements set forth in the Orange County Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be delivered or mailed directly to Chambers no later than the third business day following electronic filing of the document on the NYSCEF site.

VI. Pre-Trial and Trial Matters

A. Pre-Trial Filings:

1. An original Note of Issue shall be filed with the County Clerk, with a copy sent directly to Chambers.

2. Exhibits should be marked prior to commencement of trial and counsel should confer and stipulate to those exhibits that can be admitted without objection.

3. All motions *in limine* must be submitted to the Court and served upon all counsel not later than

ten days before the trial date. Opposing papers shall be submitted and served not later than five days before the trial date.

B. Subpoenas:

1. Proof of compliance with CPLR Sections 2306 and 2307 for subpoenas directed to municipal entities must be provided when submitting a subpoena to be “so-ordered”.
2. All subpoenas seeking the production of records subject to the HIPAA Rules shall have attached a duly executed authorization permitting the release of such records.

C. Interpreters; Other Special Accommodations:

Counsel shall notify the Court and/or Part Clerk as soon as possible, but not later than the time of the Settlement Conference in the event a translator or interpreter is required at trial.

If a party or a witness requires some accommodation, such as an assisted hearing device, counsel shall notify the Court as soon as possible.

D. Trial Notebook - CIVIL TRIALS ONLY:

No later than five (5) business days prior to the scheduled trial date, counsel shall each provide to the other (one copy) and submit to the Court (two copies) a trial notebook which shall consist of:

- (1) Marked pleadings in accordance with CPLR 4012.
- (2) Statement of relevant facts stating separately those that are not in dispute and those that are.
- (3) Pre-trial memorandum addressing any known or anticipated disputed legal issues that must be determined by the court.
- (4) A list of all potential witnesses for each party.
- (5) A list of all exhibits to be offered into evidence at trial by each party with a brief description of each exhibit (**There is no need to annex copies of medical records to the trial notebook.**).
- (6) Preliminary requests to charge. The charges will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted simultaneously with service on all adversaries. Unless counsel seeks a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted in writing together with any supporting authority. **An electronic version of PJI variations must be submitted either on CD-ROM or via e-mail in either Microsoft Word or WordPerfect format. E-mails are to be directed to**

jmartini@nycourts.gov. A charge conference will be held between the Court and the parties in order to finalize any of the proposed jury charges. Said conference will be held at an appropriate time during the course of the trial.

(7) In jury trials a proposed joint verdict sheet is to be typed in final form for presentation to the jury. **An electronic version of the verdict sheet(s) must be submitted either on CD-ROM or via e-mail in either Microsoft Word or WordPerfect format. E-mails are to be directed to jmartini@nycourts.gov.** If agreement cannot be reached on a joint submission, then each side shall present a proposed verdict sheet, along with a written explanation as to why agreement on the verdict sheet was not reached.

The court may, in its discretion and for good cause shown, relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justifies such relief. Such a request will be entertained only at the pre-trial conference. **The failure to submit a trial notebook within the time deadlines previously noted may result in the Court's disregard of the non-compliant party's requests to charge and verdict sheet, monetary sanctions or dismissal/default judgment.**

E. Evidentiary Objections. Not later than three (3) business days prior to the scheduled trial date each counsel shall provide to the other and submit to the court a statement setting forth the factual basis and authority for any objection to the introduction into evidence of the exhibits identified in the list provided by opposing counsel. The failure to submit such a statement of objections on a timely basis may be deemed to be consent to the admission of all or one of the exhibits included in the trial notebook submitted by the opposing party.

F. Witnesses. A witness not identified in the witness list provided to opposing counsel either in discovery or in the trial notebook, other than an impeachment or rebuttal witness, may not be permitted to testify unless an adequate explanation is provided for the failure to identify such witness prior to trial. Parties, fact witnesses and expert witnesses should be advised of the scheduled dates at the time the dates are set. Absent unanticipated, exigent circumstances, last minute claims of unavailability will not be accommodated where the trial dates have been previously set. All witnesses should be on one-hour phone call notice so that their waiting time in court is minimized. Professional witnesses, such as doctors, nurses and social workers, and witnesses who are public employees, such as teachers, counselors and police officers, will be permitted to testify out of order to accommodate their employment schedules. School teachers should be scheduled after 3:00 p.m. so that it is not necessary for their employers to provide substitutes.

G. Exchange of Expert Reports. Not later than sixty (60) days prior to the scheduled trial date, counsel shall each provide to opposing counsel a copy of any report by an expert whom counsel expects to call at trial.

H. Exhibits. Any exhibit not identified in the exhibit list provided to opposing counsel, other than an exhibit offered for the purpose of impeachment or rebuttal, may not be admitted into evidence unless an adequate explanation is provided for the failure to identify such exhibit prior to trial. Exhibits marked into evidence at trial will not be returned until the final conclusion of the matter. Exhibits marked for identification will be retained by the offering attorney during trial, unless taken into evidence.

I. Settlement. The court is available for a settlement conference at any time prior to the scheduled trial date. If the matter is not settled prior to the scheduled trial date, the trial will commence as scheduled. Settlement negotiations may not be entertained by the Court on the scheduled trial date prior to commencement of the trial. If the matter is settled outside the presence of the court, counsel shall advise the part clerk immediately. Proceedings requiring the presence of the jury will not be delayed by settlement discussions once the jury panel has been drawn by the jury commissioner.

J. Motions *in limine*. All motions *in limine* must be delivered to the Part Clerk or the Supreme Court Clerk Civil Window and served upon all counsel not later than ten (10) business days prior to the scheduled date of the trial or hearing, except as to issues that cannot be reasonably anticipated prior to trial. Unless otherwise directed by the Court, motions *in limine* and opposition papers to such motions shall not exceed ten (10) pages in length. Failure to submit the motions *in limine* within the requisite time frame will result in the motion not being considered.

K. Identification of Trial Counsel. Whenever a matter is to be tried by an attorney other than the attorney-of-record, trial counsel shall be identified in a writing, filed with the Court on notice to all parties, no later than fifteen (15) days from the date of the Pre-trial Conference. See *Uniform Rule 202.31*. The court may waive this rule only in instances where the attorney of record is unexpectedly engaged in an unrelated trial and the late retention of trial counsel permits the trial before the Court to proceed without adjournment.

L. Pre-Voir Dire Conference. Immediately prior to jury selection the Court may conduct a conference [See *Uniform Rule 202.33(b)*] in order to set time limits on jury selection, to hear and determine arguments concerning the number of peremptory challenges, to discuss trial stipulations, to hear and determine last minute arguments on motions *in limine*, to discuss scheduling and to address any other appropriate trial-related issue. Unless notified by the Court, the parties should proceed immediately to Central Jury by 9:00 a.m. to secure a room for jury selection and begin picking once a panel is provided. **DO NOT** come to the courtroom first unless the Court directs otherwise.

M. Jury Selection. Juries shall be selected by the parties outside the presence of the Court in accordance with “Whites Method” found in *Appendix “E”* of the *Uniform Rules for the New York Trial Courts*. The Court will impose time limits for jury selection as authorized by *Uniform Rule 202.33(d)*. Such time limits will vary based upon the nature and complexity of the particular matter. The Court will be available to resolve disputes that arise during jury selection, including but not

limited to disputes involving challenges for cause as contemplated by *CPLR Section 4108*. Peremptory challenges will ordinarily be pooled between multiple plaintiffs on the one hand and between multiple defendants on the other, and generally, each side shall be entitled to three (3) peremptory challenges for regular jurors per panel and one (1) peremptory challenge for each alternate juror per panel. However, pursuant to *CPLR Section 4109*, the number of peremptory challenges may be adjusted by the court in certain matters in the discretion of the court and in the interests of justice. The jury selection process will not be delayed by settlement negotiations once the jury panel is seated.

N. Bifurcation. Trials of personal injury actions involving issues of both liability and damages shall be bifurcated in accordance with *Uniform Rule 202.42* and all subdivisions thereof. Trials on damages will be scheduled upon completion of the trials on liability.

O. Non-jury Trials. Unless the Court directs otherwise, the parties may obtain and provide to the Court, at the party's expense, on or before the date set by the Court at the conclusion of the trial, a copy of the trial transcript and each party may submit a post-trial brief with respect to the issues raised at the trial, setting forth specific references to the relevant portions of the transcript and the documents in evidence and citing the applicable law. Along with the submission of the post-trial briefs, counsel may also present the Court with proposed findings of fact and a proposed disposition.

VII. Settled and Discontinued Cases

Counsel must notify the Court by facsimile, and where appropriate, by e-filing of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. A copy of the signed Stipulation of Discontinuance which has (or will be) submitted to the County Clerk shall be submitted to the Part Clerk so that the matter may be marked disposed.

So Ordered: /s/ Hon. Craig Stephen Brown, J.C.C. and A.J.S.C. April 19, 2018