

INDIVIDUAL PART RULES OF
JANET C. MALONE
Justice of the Supreme Court
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White Plains, New York
Room 1401

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The Westchester Supreme Court Differentiated Case Management Protocol Part Rules Revised Effective February 23, 2018 should be reviewed by all Parties and can be accessed at:
https://www.nycourts.gov/LegacyPDFS/courts/9jd/diffCaseMgmt/DCM_protocol.pdf.

I. Communications with the Court

- A. **Correspondence:** Unless the matter is E-filed, all correspondence to the Court must be by fax and include the case title and Index Number of the action on notice to the opposing party and/or attorney. Correspondence between counsel and/or self-represented parties shall not be copied to the Court.
- B. **Fax Transmissions:** Facsimiles inclusive of the cover page are not to exceed six (6) pages and legal papers of any kind will not be accepted by fax transmission unless otherwise directed by the Court.
- C. **Electronic Mail:** To avoid your E-mail going into a Spam or Junk folder, there shall be no E-Mails sent to Chambers without prior Court permission, and if such permission is granted, the E-Mail must be sent on notice to the opposing party and/or attorney. Under no circumstances shall any party and/or attorney copy any third parties on any E-Mail communication to the Court without express permission of the Court.

II. Electronic Filing Protocol and Rules

- A. **E-Filing Protocols:** Counsel and self-represented litigants shall familiarize themselves with the statewide E-Filing Rules (§§202.5-b and 202.5bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile) and the Westchester County E-Filing Protocol available at: <https://www.nycourts.gov/LegacyPDFS/courts/9jd/Efile/WestchesterCountyJointProtocols.pdf>.

All legal submissions to the Court except documents subject to the opt-out provisions of §202.5-bb of the Uniform Rules for the New York State Trial Courts, or documents subject to E-filing in which consent is being withheld must be electronically filed through the New York State Courts E-Filing System (NYSCEF).

- B. **Working Copies:** Counsel and self-represented litigants **MUST** provide working copies of all legal papers, which require judicial action (e.g., Orders to Show Cause, motions, notice of settlement, *ex parte* applications and proposed orders) to the Court. The working copy of a motion must include all documents filed in support of the motion, including exhibits WITH external tabs.

CHAMBERS SHALL RECEIVE ALL WORKING COPIES WITHIN 48 HOURS OF BEING E-FILED. All working copies must be mailed or hand-delivered so as to be received by chambers and **MUST** include a copy of the NYSCEF Confirmation Notice, otherwise such papers will be rejected. **FOR CONVENIENCE, WORKING COPIES MAY BE LEFT IN THE DESIGNATED BASKET FOR CHAMBERS ON THE 17th FLOOR.**

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

- A. **Notice of Motion (or Notice of Petition):** All motions are returnable on Wednesdays when the Court is in session at 9:30 a.m. and there is no oral argument unless directed by the Court. If the motion is not returnable on a Wednesday, it will be administratively adjourned to the next Wednesday on which the Court is in session unless otherwise directed by the Court.
- B. **Orders to Show Cause:** Proposed Orders to Show Cause submitted for consideration to the Court must include a fax number or email address to permit a confirmed copy of the signed Order to be sent to the movant. If appearances are not required on the return date of the motion, the Court will so indicate in the Order to Show Cause. Otherwise, appearances shall be required.
- C. **Requests for Temporary Injunctive Relief:** Unless there are extremely unusual circumstances in which significant prejudice (set forth in detail in a supporting affidavit/affirmation) will result, pursuant to 22 NYCRR §202.7(f) the opposing party or counsel are to be advised by telephone, fax, or E-Mail at least 24 hours in advance of the date and time that any Order to Show Cause, which includes a request for a Temporary Restraining Order or Interim Relief is being presented to the Court and is to be advised that

he/she has the right to be heard. In a true emergency or for good cause shown, the Court, in its discretion may dispense with the 24-hour notice requirement.

- D. **Discovery Motions:** Discovery motions are subject to and governed by the Westchester Supreme Court Differentiated Case Management Protocol Part Rules, Revised Effective February 23, 2018.
- E. **Default Motions:** On any motion for a default judgment, proof must be presented that a military-status investigation of all defendants, when applicable, has been conducted.
- F. **Settled Motions:** In the event the Parties settle a motion or part of a motion in advance of the return date, they shall immediately inform the Court, in writing.

G. Form of Papers

- 1. Absent express permission obtained in advance from the Court, briefs/memoranda of law, affirmations and affidavits are limited to 15 pages each. Papers, which exceed these limitations, may not be considered by the Court without notice to the offending party or may be rejected by the Court. Motion papers are limited to Moving Papers, Opposing Papers, and Reply. SUR-REPLY PAPERS ARE NOT PERMITTED UNLESS EXPRESSLY AUTHORIZED BY THE COURT FOR GOOD CAUSE. *See*, CPLR R 2214.
- 2. Except by permission of the Court, all motion papers, Orders to Show Cause, and Memoranda of Law, must be typewritten (minimum 12-point type), double-spaced, securely bound and entirely legible. All exhibits must be legible and labeled with external tab markings. Plaintiffs shall designate exhibits by number; defendants shall designate exhibits by letter. Exhibit lettering or numbering should not begin anew for subsequent papers submitted by the same party.
- 3. Citations to legal authority must be to the official citations.
- 4. Deposition/Examination Before Trial transcripts included as exhibits must be single, front-faced pages only. Parties are requested not to submit manuscripts.

IV. Adjournments of Motions

- A. **Pre-Note of Issue Summary Judgment/Dispositive Motions:** The return date for any Pre-Note of Issue motion for summary judgment or other dispositive motion, once made may not be extended more than three (3) times and such return date may not be extended for more than a total of sixty (60) days. *See*, Westchester Supreme Court Differentiated Case Management Protocol Part Rules, Revised Effective February 23, 2018 at page 5.
- B. **Post-Note of Issue Summary Judgment/Dispositive Motions:** Once a Post-Note of Issue summary judgment motion or other dispositive motion is filed, this Court CANNOT grant an adjournment. *See*, Westchester Supreme Court Differentiated Case Management Protocol Part Rules, Revised Effective February 23, 2018 at page 10.

C. **All other adjournments:** A request to adjourn all other motions must be made in writing and transmitted to Chambers by fax prior to the return date of the motion, copied to all counsel and self-represented parties. All applications for adjournments 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) the length of the adjournment sought. No more than three (3) adjournments of any motion or cross-motion will be permitted. The total period of time that a motion may be adjourned shall not exceed sixty (60) days without good cause.

Note: No motion shall be considered adjourned unless the Assistant Law Clerk or Senior Law Clerk has conveyed the Court's approval of an adjournment.

THESE RULES ARE SUBJECT TO REVISION WITHOUT PRIOR NOTICE.

THANK YOU IN ADVANCE FOR YOUR COOPERATION AND COURTESY.

Effective April 25, 2019