

INDIVIDUAL PART RULES AND PROCEDURES

HON. ROBERT DiBELLA
Supreme Court Justice

Supreme Court of the State of New York
Putnam County Courthouse
20 County Center
Carmel, NY 10512
Courtroom 401
Chambers Phone: (845) 208-7828
Chambers Fax: (845) 431-1934
Part Clerk Phone: (845) 208-7839
Part Clerk Fax: (845) 208-7869

Staff:

Patricia Andriola - Part Clerk
Brigid McCarney - Secretary
Anna Fontana, Esq. - Principal Law Clerk

Commencing on January 11, 2016, this Court shall be conducted pursuant to the following information, practices, rules and procedures:

General:

Counsel must be fully familiar with the Uniform Civil Rules for the Supreme Court, 22 NYCRR Part 202.

Counsel who appear must be fully familiar with the case and have authority to enter into any agreement, either substantive or procedural, on behalf of their clients. Counsel must be on time for all scheduled appearances and should bring the full file with them to each Court appearance.

For information regarding scheduling and/or appearances in this Part, please contact the Part Clerk, Patricia Andriola, except as otherwise specified herein.

Faxes:

Correspondence to this Court may be faxed, Faxes to chambers are permitted only if copies are simultaneously faxed or delivered to all counsel/pro se litigants. However, the submission of motion/opposition/reply papers may not be made by fax.

Conferences:

A party may request a preliminary conference any time after issue has been joined. In any event, the Court will schedule a preliminary conference within forty-five (45) days after an RJL has been filed on a matter. A form stipulation and order shall be provided to the parties.

If all parties sign the stipulation and return it to chambers prior to the scheduled conference, such form shall be "so ordered" by the Court, with any changes the Court deems appropriate in light of the nature of the case and in consideration of Standards and Goals, and, unless the Court orders otherwise, appearances will not be required at the preliminary conference.

Please diary the dates of the Compliance, Settlement, and Trial Readiness Conference given at the Preliminary Conference as no further notice will be given.

Failure to appear or notify the Court that you cannot appear at the conference may result in an adverse order pursuant to 22 NYCRR 202.27. A formal motion for relief from your default may then be required.

A Note of Issue cannot be filed until you have a Compliance Conference. If the case is not settled at that time, the Court will sign a Trial Readiness Order and then you can file the Note of Issue. The signed Trial Readiness Order must be filed with the Calendar Clerk within twenty (20) days or the case will be marked off the calendar.

Motions:

Unless the Court directs otherwise, **motions are returnable** in the Part, Room 401, on **Mondays at 9:30 AM**. Motions made on any other day will be adjourned by the Court to the next regular motion calendar. Original initiating motion papers should be submitted directly to the County Clerk accompanied by an affidavit/affirmation of service and the required fees. If appropriate, the moving party shall submit a proposed order/judgment with their moving papers. All answering and reply papers should be submitted directly to chambers. Do not submit courtesy copies of motions.

Motion papers should be bound together, and exhibits shall be separated by protruding exhibit tabs. All documents required to decide the application must be attached. It is not sufficient that documents may be on file with the Clerk of the Court.

Self-addressed, stamped envelopes must be submitted with all motions for a return decision. Orders and Judgments must also have self-addressed, stamped envelopes and a copy to be conformed if one is requested.

Appearances are not required unless the court directs otherwise. Oral argument may be requested by noting "Oral Argument Requested" immediately over the index number on the Notice of Motion. If the Court permits argument, the movant's attorney will be so advised and will be required to notify all parties.

Sur-replies will not be considered without prior permission of the Court. No papers will be considered after the return date of the motion,

Summary judgment motions shall be made no later than 60 days following the filing of the note of issue unless otherwise extended by the court.

Adjournments:

Adjournments are subject to Court approval. No request for adjournments will be considered unless it is received at least 24 hours prior to the date/time it seeks to adjourn.

Requests to adjourn conferences shall be made to the Part Clerk, Patricia Andriola, by letter mailed to the court or faxed to (845) 208-7869

Requests to adjourn motions shall be made to Chambers by letter mailed to the court or faxed to (845) 431-1934.

The requesting party must advise whether the other parties consent to or oppose the adjournment. If there is opposition to the request, then the opposing party may submit a faxed letter stating his/her position or a conference call with all parties and chambers may be arranged. When an adjournment of a motion is being requested, the requesting party shall also specify the return date being requested.

Discovery:

Counsel must consult with one another in a good faith effort to resolve all disclosure disputes before seeking judicial intervention. See Uniform Rule 202.7. If counsel are unable to resolve a disclosure dispute in this manner, before any formal motion is made, the movant shall notify the Court in writing, with a copy to all parties, setting forth the relief sought and the basis for the relief. The Court shall then schedule a conference call with counsel or a Court conference date. This procedure does not preclude the moving party from making a motion, but it provides the Court with an opportunity to resolve the dispute giving rise to the motion without the need for a formal written application. Failing resolution of the dispute, the party seeking relief may proceed with the motion.

In addition, if the proposed resolution of any discovery dispute would alter the timing provisions set forth in the Preliminary Conference Order, counsel must obtain prior Court approval for the change. If for any reason discovery does not proceed in accordance with the timing provisions set forth in the Preliminary Conference Order, counsel shall immediately advise the Court.

Pre-trial Conferences:

Once a Note of Issue is filed, a Pretrial Conference will be scheduled and conducted. Parties must personally appear. Attorneys representing corporate entities must have full authority to settle the case or immediate access to a corporate officer or director with full authority. There shall be no adjournments of Pretrial Conferences.

Trials:

Once scheduled, a trial shall not be adjourned for any reason other than the actual engagement of counsel as provided for in §125-1 of the Rules of the Chief Administrator of the Courts. Any application for an adjournment must be made in writing and must be supported by an affirmation of counsel establishing the requisite grounds set forth in 22 NYCRR §125.1.

Prior to the commencement of a trial, counsel shall provide the Court with:

- Marked pleadings
- Bill of particulars
- Exhibit list

(material to be used on cross-examination need not be listed. The attorneys are to pre-mark their exhibits. Only those received into evidence will be marked by the reporter. The reporter is to be provided with an exhibit list.)

- Proposed Jury Charge
- Proposed Verdict Sheet

The charge must be drawn from the Pattern Jury Instructions (PJI). A complete list of all proposed charges shall be submitted. Unless counsel seek a deviation from the pattern charge or additions to the pattern charge, only a list of the PJI numbers and topic need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted with the proposed changes in bold print, together with any supporting caselaw. Additional requests to charge shall be submitted to the Court as directed-

The verdict sheet is to be prepared jointly by counsel and provided to the Court- The verdict sheet is to be typed and in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet.

Settlements:

If an action is settled, discontinued, or otherwise disposed, counsel shall immediately inform the Court by submission of a copy of the stipulation or other document evidencing the disposition. Counsel shall also indicate whether there are any pending motions.

Matrimonial Actions:

Parties must be present at the conference in any matrimonial action unless prior court approval for a party's absence is provided.

No later than ten (10) days prior to a preliminary conference in any matrimonial action, each party shall file and serve copies of the following documents:

- Retainer agreement;
- Net worth statement; and
- Most recent paystub and income tax return.

Any application regarding child support must be accompanied by a completed Child Support Worksheet.