

HONORABLE LEWIS J. LUBELL, J.S.C.

Westchester County Courthouse
111 Dr. Martin Luther King Jr. Blvd.
White Plains, NY 10601
COURTROOM 1601

(Effective 1/4/16)

PART TELEPHONE 914-824-5623
CHAMBERS TELEPHONE 914-824-5392
FACSIMILE 914-824-5862

CLERK of the PART: **Efraim Nieves**
PRINCIPAL LAW CLERK: **Alfred A. Farella, Esq.**
SECRETARY: **Eva Nilsson-Smith**

GENERAL

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 must bring sufficient material to allow meaningful discussion of unresolved issues to each Court appearance. Sanctions may be imposed for failure to comply with this rule.

Faxes and letters addressing anything other than procedural issues, such as, but not limited to adjournments, will not be considered by the Court absent prior Court approval.

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. In addition, counsel must advise the Court about the existence of any open motions.

ADJOURNMENTS

All adjournments, on consent or otherwise, whether for a conference, motion, or any other matter, must first be approved by the Court. Counsel are directed to contact the Part Clerk for approval of any consented or contested adjournments.

MOTIONS

Motions will be returnable on Fridays at 9:30 AM, except by order of the Court. Papers not received by the Court by noon of the return date may not, in the Court's discretion, be considered by the Court. Courtesy copies of motions are to be submitted (see infra). Notice of Motion, affidavits and exhibits **with exhibit tabs**, if applicable, should be assembled in that order in one blue back so that exhibits may be clearly displayed and easily found, unless the exhibits are voluminous. The failure to properly tab exhibits **MAY** result in the rejection of the submission. Unbound motions are also subject to rejection.

Unless otherwise advised by the Court, appearances are not required on the motion return date. However, oral argument may be requested by noting **Oral Argument Requested** immediately over the index number on the Notice of Motion. If the Court, in its discretion, desires oral argument, either upon counsels' request or on its own initiative, the movant's attorney will be so advised and will be required to notify all parties of the granting of same and of the time and date for oral argument (which may or may not be the noticed return date). A request for oral argument should not be construed by counsel as the automatic granting of same.

Sur-replies will not be considered, unless the Court otherwise directs. If new issues are raised in the reply, or if there has been a change in the law while the motion is pending, counsel are to advise chambers, in writing, of the request to submit additional affidavits or memoranda. Other papers including letters which are sent after the submission of the motion, will not be considered. Any objection to the filing of a sur-reply should be made to the Court by way of letter addressing the procedural transgression and not the merits of any issue raised.

The Court does not permit litigation by way of letter correspondence to the Court or by way of being copied with letter correspondence from one attorney to the other. Any such submission should be considered by counsel as having been filed without further action or consideration of the Court.

Post-Note of Issue Motions must be made within 60 Days of the receipt of service of the Note of Issue.

TRIALS

Upon assignment of a trial to this part, counsel shall provide the Court with: a) marked pleadings and an exhibit list; b) contentions on one typed page, single spaced; and c) proposed requests to charge. Material to be used on cross-examination need not be listed on the exhibit list. Only those received in evidence will be marked by the reporter. The reporter is to be provided with an exhibit list.

Trial days will commence at 9:15 and continue through 12:30 and continue in the afternoon commencing at 1:45 through 4:30/4:45 unless prior scheduling has been discussed. The court is to be advised of dates of expert testimony so that scheduling will be coordinated so that there will be no down time and that the expert testimony will be able to be completed on that day if possible.

Requests to charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted via e-mail to llubell@nycourts.gov, notwithstanding the standard charges given by the Court. Unless counsel seek a deviation from the pattern charge or additions to the pattern charge, only the PJI numbers and section title need be submitted. Where deviations, additions or charges which require the inclusion of information or material relative to the factual or legal issues adduced at trial are requested, the full text of such requests, including included material, must be submitted, together with any supporting legal precedents. All submissions must be served on opposition counsel. Final charges will be formalized at a charge conference during the course of the trial.

Verdict sheet - Counsel shall jointly prepare a proposed verdict sheet. 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 separate proposed verdict sheet. If it is feasible, such proposals shall also be submitted via e-mail to llubell@nycourts.gov such as is compatible with WordPerfect 12.0. The final verdict sheet will be formalized during a charge conference to be held during the course of the trial after the conclusion of the plaintiff(s) case.

E-FILING RULES AND PROTOCOL

All parties must familiarize themselves with the statewide E-Filing Rules (Uniform Rule §§202.5-b and 202.5-bb - available at www.nycourts.gov/efile) and the Westchester County E-Filing Protocol available at the following website:

<http://www.nycourts.gov/courts/9jd/Efile/WestchesterCountyJointProtocols.pdf>

General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033. Specific questions relating to local procedures should be addressed to the Civil Calendar Office (914) 824-5300.

Electronic Filing

All documents in an e-filed case, except documents subject to the "opt out" provisions of §202.5-bb of the Uniform Rules of the New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, 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.

Working Copies

Working copies of motions with affidavits, affirmations and properly tabbed exhibits and responses and replies thereto and proposed orders to show cause, proposed orders and judgments, stipulations and transcripts shall be provided to the Court for its consideration. All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the back cover page (facing up) of the submission and must otherwise comply with the requirements set forth in the Westchester County Protocol.

Working copies should be dropped off in the basket by the elevators on the 16th floor of the County Courthouse or mailed to the Hon. Lewis J. Lubell, JSC at the County Courthouse.

Working copies without the Confirmation Notice will not be accepted.

The Clerk of the Part, Efraim Nieves, will provide further instruction by way of e-mail upon the E-Filed assignment of any matter to this Part.