

INDIVIDUAL PART RULES

(Effective August 17,2022)

HON. CHARLES D. WOOD

Supreme Court Justice, 9th J.D.

Westchester County Courthouse

111 Dr. Martin Luther King Jr. Blvd., Courtroom 1202

White Plains, New York 10601

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I. GENERAL RULES

A. Governing Authority: The Uniform Civil Rules for the Supreme Court and the County Court,(22 NYCRR 202.1, *et seq.*), and the Westchester Supreme Court Civil Case Management Rules (nycourts.gov), govern the conduct of parties and counsel, subject to these Part Rules. Questions regarding local procedures should be addressed to the Civil Calendar Office at 914-824-5300.

B. Even/Odd Index No. Assignments: Cases assigned to Judge Wood (“this Court”), with even numbered index numbers, will be handled by the Court Attorney, and the odd index numbers will be handled by the Law Clerk.

C. Electronic Filing: All documents in mandatory e-filed cases (except documents subject to the opt-out provision of 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). Questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@courts.state.ny.us.

D. Length of Papers: Affidavits, affirmations, briefs and memoranda of law shall be limited pursuant to 22NYCRR 202.8-b of the Uniform Rules for the Trial Courts and contain a certificate of compliance. Papers submitted to this Court in violation of this rule, may not be considered in deciding the motion.

E. Working Copies: For all NYSCEF cases, working copies are not accepted, unless otherwise directed.

F. Virtual and In-Person Appearances: Non-appearance or late appearance in the absence of an adequate excuse, may be subject to sanctions and/or costs. Virtual appearances may be ordered by this Court or as directed by Administrative Order, and are conducted by Microsoft Teams. A Teams link will be emailed to all parties prior to the scheduled virtual appearance. If a party does not receive a link for a scheduled virtual appearance, the party must request a link by e-mailing

the Part Clerk on notice to all other parties, before the virtual appearance date. Teams links are sent only to the parties' service e-mail addresses listed on their NYSCEF accounts.

If a party experiences technical difficulties when accessing the Teams link and cannot connect to the call-in number, the party shall immediately e-mail the Part Clerk on notice to all other parties. The party shall include in the e-mail a phone number where that party can be contacted. Recording of virtual appearances is prohibited and subject to sanction. Only counsel and the parties may be present during a virtual appearance, unless other persons are expressly permitted by this Court.

II. COMMUNICATIONS WITH THE COURT

A. Written Correspondence: Correspondence to this Court must be uploaded to NYSCEF. . This correspondence will not be considered, unless all copies are simultaneously faxed or delivered to all counsel.

B. Ex-Parte Communications: Ex-Parte communications are strictly prohibited except upon consent of all counsel, or with respect to scheduling matters or the presentation of orders to show cause for signature. In addition, counsel must inform his/her client that under no circumstances shall any member of this Court's staff engage in any conversation or exchange any communication with a represented party. Self-represented parties must direct all communications through the Part Clerk and the Secretary. This Court shall not be copied on correspondence between Counsel and/or self-represented parties.

III. CONFERENCES

A. Preliminary Conferences: The Preliminary Conference Part generally handles Preliminary Conferences. In the case where a preliminary conference order cannot be issued, for reason of dispute between the parties, or other reason, it will be referred to this Part, and a Preliminary Conference will be conducted by either the Law Clerk or Court Attorney. Once a preliminary conference order has been issued, the case will remain on this Court's assigned inventory for discovery proceedings.

B. Compliance Conferences: The date of the first Compliance Conference shall be noted on the preliminary conference order. To ensure that a case stays on its designated track, the first compliance conference shall be held approximately one hundred fifty (150) days prior to the date fixed as the last day of discovery.

The designated days of Compliance Conferences for **even** number index numbers to be conducted by the Court Attorney are Wednesdays and Thursdays, and for **odd** numbers to be conducted by the Law Clerk on Tuesdays. After each Compliance Conference, the Law Clerk or the Court Attorney will complete a Compliance Conference Order, to be executed and uploaded by this Court on NYSCEF.

Counsel for each party and/or self-represented litigants are required to confer prior to a scheduled compliance conference, and if agreed upon a discovery schedule that meets the timing of the designated discovery track, then counsel shall email a stipulation signed by

counsel, or self-represented litigants, to the Secretary and Part Clerk, and upload onto NYSCEF, before the scheduled conference.

Requests for modifications to discovery schedules shall be addressed to the Law Clerk or Court Attorney at the conference. Inquiries submitted by the NYSCEF system or by email to the Part Clerk is restricted to scheduling matters and routine submissions only. If assistance is required regarding a discovery issue, a party shall request a Compliance Conference in a timely manner by e-mailing the Part Clerk, on notice to all other parties.

Adjournments of Compliance Conferences shall be granted upon a showing of good cause (22 NYCRR 202.10). The requesting party must upload the request to NYSCEF and all other parties. Unless the parties receive confirmation from the Part Clerk or Secretary that a conference has been rescheduled, the parties must appear for the conference as originally scheduled.

The parties are cautioned that any adjournment of the Compliance Conference will not excuse a failure to provide discovery or failure to adhere to a preliminary conference order or compliance conference order and that discovery shall proceed during the period of any adjournment (22 NYCRR 202.10).

C. Directives in Preliminary and Compliance Conference Orders: The parties are cautioned that all directives in preliminary conference orders and compliance conference orders are to be followed and it is expected that pre-trial proceedings will be completed on time, absent good cause. Lack of diligence will not be regarded as a sufficient excuse. Failure to comply with the terms of a preliminary conference order or compliance conference order, and making frivolous motions, may result in the imposition of costs or other sanctions on the offending party (22 NYCRR §202.12[f]; 22 NYCRR §202.20-e).

D. Settlement Conferences: After a Note of Issue is filed, a settlement conference will either be heard by this Court or the CPT-ADR Part Westchester. Counsel or non-represented party will either be notified by this Court or the CPT-ADR Part, as to the date, time, place, and mode of the Settlement Conference. In addition, after a summary judgment motion is decided, a settlement conference will be directed, if appropriate. Counsel may also e-mail the Secretary, if during the course of the case, counsel believes that this Court can be of assistance in settling a case.

IV. STIPULATIONS/SETTLEMENTS

A. Settled Actions: The parties are cautioned that the all-too-common practice of appearing before this Court and representing that a settlement has been made will no longer be accepted. When an action is settled, discontinued or otherwise disposed of, counsel or self-represented parties must promptly file a stipulation of discontinuance by NYSCEF before the case is marked settled and disposed (22 NYCRR §202.28). If no filing of the stipulation of discontinuance is completed, the parties must appear on the scheduled compliance conference date, or alert this Court that the stipulation of discontinuance was filed.

B. No Delay of Discovery: If the parties reach a settlement agreement on the record and require time to effectuate the filing of a stipulation of discontinuance or to address settlement-related issues such as liens, the matter may be set down for an appearance in this Part to ensure that

discontinuance is effectuated in accordance with CPLR 2104, CPLR 3217 and CPLR 8020(c). However, the pendency of settlement negotiations will not delay, adjourn or in any way affect the scheduling of discovery proceedings or trials.

V. GENERAL RULES FOR ALL MOTIONS/ORDERS TO SHOW CAUSE

A. Motion Calendar, Appearances, Papers, and Oral Argument: Motions are returnable on Fridays. Represented parties need not appear for conferences unless directed to do so by the Court. Counsel should strive for brevity in the making of all motions and opposition thereto. Absent a specific order to the contrary from this Court in a particular case or as otherwise provided in these Part Rules, all motions shall be submitted **without** oral argument. There will be no personal appearances on the return date of any motion, unless this Court so directs. The scheduling of oral argument will not result in an adjournment of the return date of any motion unless the matter has not been fully submitted. Reply papers are encouraged. Sur-replies will not be considered, unless the court otherwise directs. Other papers, including letters sent after the return date of the motion, will not be considered.

B. Return dates and adjournments: The return date for any motion, whether pre-Note of Issue or post-Note of Issue, including motions for summary judgment and other substantive motions, and discovery related motions, once made, may not be adjourned more than three (3) times and such return date may not be adjourned for more than a total of sixty (60) days. Any request for an adjournment may be made in writing to the Motion Support Clerk by email to: MotionSupportWestchester@nycourts.gov at least two (2) business days prior to the return date, on notice to all parties. A proposed stipulation of the parties or order shall be filed by NYSCEF when any request for an adjournment is made. As appropriate, the Motion Support Office shall administratively adjourn motions to the motion day specified in the assigned IAS Justice's Part Rules. Counsel is cautioned that untimely motions cannot be made timely by denominating them as cross-motions.

At no time shall an adjournment be granted after the time to move or submit opposition or reply papers has expired. No requests for adjournments shall be addressed to the IAS Part, including this Court. Any request for an adjournment may be made in writing to the Motion Support Clerk by e-mail to MotionSupportWestchester@nycourts.gov at least two (2) business days prior to the return date, on notice to all parties. A proposed stipulation of the parties or order shall be filed by NYSCEF when any request for an adjournment is made.

C. Multiple Dispositive Motions: If multiple dispositive motions and cross-motions are submitted in the same case, which issues are all related, for judicial economy and consistency in decisions, this Court will consider all such motions and cross-motions together, and all will be designated as fully submitted on the latest return date of any of said motions/cross-motions.

D. Orders to Show Cause and Requests for Temporary Relief: An Order to Show Cause submitted to this Court must be uploaded to NYSCEF or presented to the office of the calendar clerk, after the payment of any required fee at the County Clerk's Office. A conference on the request for a Temporary Restraining Order, if required, will be conducted by this Court at a date and time set by this Court. If this Court signs an Order to Show Cause, it will be uploaded to

NYSCEF. If it is not an e-file case or the moving party has not opted into NYSCEF, this Court will email the signed Order to Show Cause to the moving party. A briefing schedule will be provided on the signed Order to Show Cause. If appearances are required on the return date of the motion, this Court will so indicate. Otherwise, no appearance is required, and no oral argument will be heard.

E. Counsel's Withdrawal Application: Motions to be relieved as counsel shall be made by Order to Show Cause returnable to this Court and counsel shall submit a proposed order granting the relief requested (22 NYCRR 202.8-a[b]).

VI. DISCOVERY MOTIONS

No discovery-related motion may be submitted and e-filed until a pre-motion conference has been requested and held. A pre-motion conference is requested by e-mailing the Part Clerk on notice to all other parties. If a discovery dispute is addressed during a preliminary conference, the preliminary conference may constitute the pre-motion conference; however, no motion papers may be filed until after a Preliminary Conference Order has been issued. **In addition, absent exigent circumstances, the parties are expected to confer in good faith either in-person or by telephone prior to requesting a pre-motion conference (22 NYCRR §202.20-f).** Motions filed before a pre-motion conference has been held will be denied unless there is shown good cause why such relief is warranted before the conference is held (22 NYCRR §202.12[h]). Nothing in these rules shall be construed to prevent or limit counsel from making any motion deemed appropriate to best represent a party's interests. The pre-motion conferences shall be held to permit this Court the opportunity to resolve issues before motion practice ensues.

VII. NOTE OF ISSUE/SUMMARY JUDGMENT MOTIONS

A. Trial Readiness Order/Note of Issue: Once discovery is complete or has been deemed waived, this Court shall issue a Trial Readiness Order pursuant to which plaintiff will be ordered to serve and file by NYSCEF, a Note of Issue and Certificate of Readiness within twenty (20) days. The parties may request the issuance of a Trial Readiness Order without the necessity of an appearance at a virtual compliance conference, by submitting through NYSCEF a signed Trial Readiness Stipulation to such effect to this Court to be so-ordered.

B. Vacate Note of Issue: Applications seeking to vacate a Note of Issue or to otherwise challenge readiness for trial shall be made by NYSCEF as required by 22 NYCRR §202.21.

C. Summary Judgment Motions: The deadline for any post-note summary judgment motions shall be set forth in the Trial Readiness Order which shall provide that any motion for summary judgment by any party must be made within sixty (60) days following the filing of the Note of Issue. The Trial Readiness Order provides that opposition papers must be served and filed via NYSCEF within thirty (30) days of service and filing via the NYSCEF system of motion papers, and reply papers, if any, must be served and filed via NYSCEF within ten (10) days following service of any opposition papers.

D. Statement of Material Facts: **This Court does NOT require a separate Statement of**

Material Facts annexed to the summary judgment motion, pursuant to Amended Rule 22NYCRR 202.8-g.

VIII. TRIAL PRACTICE RULES

A. Pre-Trial Conference: Immediately prior to the commencement of a hearing or trial, this Court will conduct a conference with all counsel and self-represented litigants to discuss preliminary matters and procedural issues. Counsel or self-represented litigants must be prepared to: provide marked pleadings; advise this Court of the estimated length of the trial; provide a list of all witnesses who may be called at trial; alert this Court to any anticipated motions in limine or evidentiary objections which will be made during the hearing and/or trial and must provide this Court with a copy of all prior decisions and orders which may be relevant to such application; and/or any other issues relevant to the trial. In addition, in all matrimonial actions, an updated net worth statement and a statement of proposed disposition must be provided to this Court.

B. Verdict sheet and Proposed Jury Charges: Counsel shall jointly prepare a verdict sheet. The verdict sheet is to be in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet to this Court, preferably on a flash drive, using Microsoft Word.

C. Copies of Transcripts: If any part of a transcript of an examination before trial will be read as evidence-in-chief, the proponent of the transcript must provide a complete copy of it to this Court and all other counsel and/or self-represented parties, prior to its reading.

D. Trial Exhibits: Counsel shall exit the courthouse with their trial exhibits after trial. If exhibits are not picked up they will be considered abandoned and will be destroyed after ten days.