

STATE OF NEW YORK
UNIFIED COURT SYSTEM
SUPREME COURT-SUFFOLK COUNTY
HON. JERRY GARGUILO
CHAMBERS

John P. Cohalan, Jr., Courthouse (Courtroom S-33)
400 Carleton Avenue, Central Islip, New York 11722
(631)740-3915 Fax (631)853-7542

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COMMERCIAL PART 48 AND CIVIL PART 47- RULES AND PROCEDURES

Unless otherwise directed by the Court, the following rules shall govern commercial practice in Part 48 and civil practice in Part 47:

CORRESPONDENCE

BY FACSIMILE: Please note that no party shall fax **any** correspondence or motion related documents to chambers without prior permission. Upon granting permission, all letter facsimiles seeking permission to process a motion, or otherwise, are limited to two (2) pages (not including the cover sheet). Any such correspondence of more than two (2) pages will not be considered.

E-FILE CASES: All correspondence to the Court shall be E-FILED.

MOTION PRACTICE

CALENDAR CALL: Status and Compliance Conference calendars are scheduled at **9:45 a.m.**. Please be punctual. In the event of a scheduling conflict, please call and notify both the Court and adversary. Attendance by the Parties, i.e., Clients in person, is mandated at the first conference and all subsequent conferences unless excused for good cause.¹

PRE-MOTION CONFERENCE: Prior to submitting a motion on actions assigned to this Court, movant shall arrange and schedule a conference with the Court, notify all parties to the action in advance, and prepare to articulate the issues and efforts toward resolution. No motion may be submitted in the absence of the pre-motion conference, which may be had via conference call. Pursuant to the foregoing, **Updated Rule:** Counsel are directed to limit correspondence to the Court as concerns a request for a pre-motion conference. That process will afford all counsel the opportunity to state their claims and opposition. The Court shall engage counsel during said pre-motion conferences with the aim of resolving their disputes by way of stipulation. Be advised, no other correspondence/communication shall be entertained via email or facsimile, except as otherwise allowed within these rules.

RETURN DATES/ SUBMISSIONS: All motions made in cases assigned to Judge Garguilo must be calendared for Wednesdays. Unless adjourned by the Court, all motions appearing on the Court's Wednesday motion calendar shall be ready for oral argument. Please call chambers to confirm if your appearance is required on the motion return date.

1. This Rule only applies to Commercial Division cases in Part 48.

PAPERS: Timely filing of all papers in accordance with the CPLR is required. All motion papers must be submitted through Special Term. Exhibits shall be tabbed. The tabs shall be affixed to the lower portion of the exhibit, not on the side. In electronically filed cases, the Court shall be provided with “working copies” of all papers, as defined in Part 202.5(b) of the Uniform Civil Rules for the Supreme Court and the County Court.

ADJOURNMENTS (MOTIONS): Adjournments of motions will be governed by 22 NYCRR 202.8 (e). All proposed adjourn dates of motions must fall on a Wednesday. All adjournments on consent shall be in writing and must be received by chambers no later than 3:00 p.m. on the day prior to the return date. The fax number for chambers is (631) 853-7542. If the consent of all appearing parties is not obtainable, an oral application for an adjournment on or before the date the motion is returnable must be made by the party seeking the adjournment, upon due notice to all parties (telephone conference is available).

SETTLED OR WITHDRAWN MOTIONS: The Court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice. The failure to do is sanctionable.

POST NOTE MOTIONS: Neither an appearance nor a pre-motion conference is required for post-note of issue motions, unless requested by all parties.

CONFERENCES

ADJOURNMENTS: All applications whether on consent or over objection may be communicated to chambers no later than 4:30p.m. on the day prior to the scheduled conference. The telephone number for chambers is 631-740-3915. Any application to the Court seeking an adjournment must be done on prior notice to all parties.

ARBITRATION PROVISIONS: It is incumbent that all attorneys disclose, in writing, the existence of an arbitration provision found in any document relevant to the dispute before the Court. Additionally, in the absence of an express waiver by all parties to the agreement, the matter will be stayed and referred to the appropriate arbitration forum.

SCHEDULING: Status and Compliance conferences shall be calendared Mondays and Tuesdays. The parties, on consent, may schedule a Settlement Conference with the Court. Conferences may be scheduled throughout the day.

APPEARANCES: Appearances by persons with knowledge of the facts and vested with authority to make binding dispositions are required. Non-appearances will not be countenanced by the Court and may subject the non-appearing party to one or more of the sanctions attendant with defaults (see, 22 NYCRR 202.27; 22 NYCRR Part 130-2).

PRELIMINARY CONFERENCES: Preliminary conferences will be held in Part 48 at 400 Carleton Avenue, New York. Counsel for the respective parties are directed to appear at **9:45 a.m.** on the preliminary conference ready for said conference. All matters, including those raised by pending motions and those contemplated by 22 NYCRR 202.19, shall be considered at the

preliminary conference.

COMPLIANCE CONFERENCES: These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR 202.19. Counsel are expected to have authority to dispose the matter.

ELECTRONIC FILING: Both Parts requires working copies for all electronic submissions. Working copies shall be delivered to chambers on or before the submission date. No motion shall be deemed fully submitted until all hard copy submissions have been provided.

TRIALS

JURY TRIALS: A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. Thereat, counsel shall supply the Court with marked pleadings, amendments thereto and all bills of particulars served. Counsel shall further provide the Court with a list of proposed jury charges and proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court and to the stenographer. Counsel shall advise the Court of the number of witnesses to be called, and if any be experts, shall provide the information required by CPLR 3101(d)(1)(I).

All hospital records and other items in evidence over fifteen [15] pages must be paginated before use in the trial. In all malpractice cases each attorney in anticipation of charge conference and verdict sheet preparation must have the departure and causation testimony located in the trial transcript available for the Courts review.

NON-JURY TRIALS: Non- Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. In addition, thereto, for non-Jury trials, counsel shall submit a proposed order framing the issues to be tried. The parties shall be required to provide a transcript of the trial. The filing of a note of issue is a condition precedent to the commencement of any trial.

MISCELLANEOUS MATTERS

COMPROMISE APPLICATIONS: All applications for Court approval of a proposed compromise of an infant or other disabled party's claim must be submitted through the Special Term, with proof of service on all remaining parties. Compliance with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67 and a proposed distribution of amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. The Court will not accept medical reports/affidavits executed more than six months prior to the submission date. The report must indicate whether the injured plaintiff has fully recovered, and if not, the nature and extent of the injuries and course of future treatment. Since the Court may direct that notice of the application be given to all persons who possess claims against the proceeds recoverable under the compromise, including those with statutory liens, the names and addresses of all such persons and the amount of their respective claims must be set forth in the petition. If no person has asserted such a claim, the petition must so state. Once the submissions are complete, an appearance date will be scheduled by the Court.

HEARINGS/ INQUESTS: All hearing and or inquests from cases in the inventory of IAS Part

47 and Part 48 shall be scheduled by the Court. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest.

EX PARTE COMMUNICATIONS WITH CHAMBERS: Except to the limited extent permitted by these rules and by the rules set forth at 22 NYCRR 100.3, ex parte communications with the Court or any member of its staff, by telephone or otherwise, is strictly prohibited.

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