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ACTING SUPREME COURT JUSTICE
Arthur M. Cromarty Court Complex
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PART 70 RULES

The purpose of these Part 70 Rules is to provide the framework for the effective, efficient, and expeditious management of every case and to create a shared understanding of how that goal of the effective, efficient and expedition management of cases to reach timely conclusions will be implemented.

All attorneys and all self-represented litigants must comply with the Rules of Professional Conduct (22 NYCRR Part 1200.1 *et seq.*) and any other regulations, including the letter of engagement rules (22 NYCRR Part 1215.0 *et seq.*).

All parties and counsel appearing in this Part, whether in person or virtually, must be prepared, well-organized, punctual, and professionally attired. All parties and counsel must treat each other with dignity and respect. All attorneys and parties appearing before the Court are expected to be familiar with and comply with these Part 70 Rules.

Part 70 is housed in Courtroom 3 on the third floor of the Arthur M. Cromarty Court Complex, 210 Center Drive, Riverhead, New York 11901, which is the building that houses the family court and the superior criminal court. Upon exiting the elevators, turn right and go through the doorway between the newer and older portions of the complex to arrive at the courtroom.

When used in these rules, the term “counsel” means any attorney and any self-represented litigant.

I. APPEARANCES

A. General Rules

1. Appearances are now in person unless otherwise ordered.
2. The Part 70 Microsoft Teams link is <https://notify.nycourts.gov/meet/00p51f>.
3. Non-appearances are a default, and the Court will issue an order consistent with 22 NYCRR 202.27 and/or 22 NYCRR 130-2.1.

4. All appearances are set for a time certain basis. Often, the Court is able to send a calendar reminder to counsel which, for virtual appearances, may include the link to use.
 5. Any counsel who is in the Cromarty Court Complex on **other** matters before any court that required an in person appearance on the same day as a Part 70 appearance may request to appear in person by letter filed by NYSCEF before noon two business days ahead of the appearance to enable the Court to evaluate the request and determine if adequate staffing able to be arranged to accommodate an in person appearance.
 6. Counsel who appears must have (A) full settlement authority (B) the ability to reach immediately by telephone or other method a client representative who is able to approve a settlement and/or make counteroffers, and (C) a full working knowledge of the case.
 7. When appearing virtually, counsel must adhere to the same rules of conduct that pertain to in person appearance, including attire, not eating, not taking telephone calls, and using professional language and forms of address. No one may appear from a moving vehicle, from any location where unreasonable background noise or visual stimuli materially impair conducting the Court's business, and/or without being on video. The Court notes that the technology available to the Court for conferences does not always include a camera for the Court.
- B. Hearings and Trials
1. Notwithstanding the general rule of virtual appearances, unless the Court orders otherwise, all hearings and all trials are in person.
 2. All persons appearing for a hearing or trial in person must comply with all security and public health protocols. Counsel must immediately notify the Court by letter filed by NYSCEF if a person who is expected to appear in person is going to be unable to appear because of illness, quarantine, or other disqualification from entering the courthouse.
- C. Attorneys of Record
1. CPLR 321 and the Rules of Professional Conduct require that before a litigant's status changes from represented to self-represented, a motion brought by order to show cause must be granted. Therefore, no substitution of attorney forms that purport to change a litigant's status from represented by counsel to not represented by counsel (self-represented) are effective, and any such forms are a nullity.

2. Counsel must file a notice of appearance within two business days of being retained.

II. CONFERENCES

All conferences will result in an order of the Court. If any counsel believes that the order does not accurately reflect the substance of the conference, then all counsel must file a joint letter with the Court within three business days of the order being posted to NYSCEF.

Please see rule I (A) (6) regarding the requirements for counsel making any appearance, including a conference appearance.

A. Early Settlement Conferences and Preliminary Conferences

1. At least five business days prior to the Early Settlement Conference, counsel must submit a joint letter of not more than six pages setting forth all agreements regarding the items set forth in 22 NYCRR 202.11 (i) – (iv), each party’s position on obvious or open issues where agreement has not been reached and any additional issues that any party wants to discuss at the Early Settlement Conference along with agreements and/or positions regarding the additional issues.
2. In addition, the joint letter must set forth (a) when each party served any “paper discovery” demands, including notices to produce/demands for documents, demands for bills of particulars, notices to admit, etc.; (b) when each party any served responses to paper discovery demands; (c) the dates of pending examinations before trial and a list of persons anticipated to be deposed but for whom an examination before trial is not yet scheduled; (d) if Plaintiff’s and/or Defendant’s examination before trial has not yet been conducted, good cause why such the party’s examination before trial has not yet been conducted (unless the Early Settlement Conference occurs within 4 months of service of process).

B. Compliance/Status Conferences

1. If requested or ordered by the Court, then at least five business days prior to any Compliance or Status Conference, counsel must submit a joint letter of not more than six pages setting forth all agreements regarding the items set forth in 22 NYCRR 202.11 (i) – (iv), each party’s position on obvious or open issues where agreement has not been reached and any additional issues that any party wants to discuss at the Compliance/Status Conference along with agreements and/or positions regarding the additional issues.
2. Discovery compliance and note of issue deadlines will be strictly enforced.

C. Pre-Trial Conferences – see section IV (A)

D. Motion Conferences

1. The Court does not require pre-motion conferences. At any time, counsel may submit any proper motion that the law or a court order does not require be preceded by leave of the court.
2. In some instances, the Court may administratively adjourn a return date of a motion after all papers are filed to enable the Court to hold a pre-submission conference, the date, time, and place of which the Court will set by order.

III. MOTIONS

A. Working Copies/Courtesy Copies

The Court works from the NYSCEF filed documents, so no counsel is required to send any working or courtesy copies of any documents to chambers.

B. Return Dates/Adjournments

1. Counsel must set the return date of all motions, regardless of case type, for a Tuesday. The Court will administratively adjourn any motion not noticed for a Tuesday to the first available Tuesday following the return date set in the notice of motion, and all deadlines are adjusted based on the administratively adjourned return date.
2. By stipulation and in strict compliance with 22 NYCRR 202.8 (e) (1), the return date of a motion may be adjourned within the parameters set forth in that Rule of the Chief Administrator. However, the stipulation must be filed before noon on the Thursday immediately preceding the Tuesday return date.
3. Any other adjournment requests must be made by joint letter (see below regarding joint letters) to comply with 22 NYCRR 202.8 (e) (2). This may be a time-sensitive matter that requires a telephone call to chambers (see below regarding communication with chambers).

C. Proposed Orders

The proponent of any motion or cross-motion must file a proposed order with the motion papers. The opponent to any motion or cross-motion must file a proposed order with the opposition papers.

D. Motion Papers

1. Consistent with 22 NYCRR 202.8 (c), affirmations and affidavits are separate from briefs. Counsel is prohibited from including legal argument in affirmations and affidavits. Counsel must put relevant facts in affirmations and affidavits. Counsel must put legal argument in a brief (or memorandum of law) which may include a “Facts” section with citations to the record.
2. A brief or memorandum of law that exceeds ten pages (excluding the caption, signature block, and any tables of contents or authorities) must include a table of contents setting forth the major headings in the brief or memorandum and the page number where that section begins and a table of authorities setting forth each page on which the cited authority appears.
3. Notices of Motion and prayers for relief must request relief with reasonable specificity. For example, “seeking a default judgment against all non-appearing defendants” is inadequately specific because that noticed relief requires the Court to search the record and act as an advocate, but “seeking a default judgment against the following non-appearing defendants . . . “ with a list of them is reasonably specific.
4. Counsel must organize and present the facts in any affidavits and/or affirmation and the arguments in any briefs and/or memoranda of law using some form of outlined format that corresponds to the sequence of the prayers for relief in the notice of motion.
5. Counsel is encouraged to cite New York cases to the official reports with a parallel citation (including a parallel pinpoint citation for a direct quote) to New York Supplement, and to cite all other cases to the official reporter for that jurisdiction. If counsel cites to a case or other authority that is reported only in the New York Law Journal and/or only in an electronic source, then counsel must append a true, complete and correct copy of that authority to the brief or memorandum of law, with such appendix being clearly identified and not counting against any page or word limit.
6. Counsel is not required to hyperlink to cited authorities although doing so is remarkably helpful for the Court.

E. Oral Argument

22 NYCRR 202.8-f governs oral argument to the extent that these Part 70 Rules do not address oral argument, that rule controls. Unless a party requests oral argument in the notice of motion or the Court orders it in the Court’s discretion, all motions are deemed submitted on the return date.

F. Motion Conference – see section II (D) above.

IV. TRIALS/HEARINGS

A. Post-Note of Issue Pre-Trial Conference/Any Pre-Hearing (including limited or framed issue hearings) Conference

1. 10 business days before the pre-trial conference, counsel must file with the Court with (A) one set of jointly marked pleadings and all amendments to them (subject to the rules about joint letters); (B) each demand for and response to a bill of particulars; (C) a list of all documentary exhibits which a party intends to introduce at trial, pre-marked, beginning with 1 for Plaintiff and continuing with consecutive integers thereafter and with A and continuing with letters thereafter (with the twenty-seventh exhibit to be AA, the twenty-eight to be AB, and so on until the fifty-third exhibit which will be BA, the fifty-fourth exhibit which will be BB, and so on), with such list to indicate all agreements regarding the admissibility of each documentary exhibit; (D) the party's objection (other than foundation that the documentary exhibit is what it purports to be and is a true and accurate copy of the original, if applicable) to the admissibility of any exhibit of an adverse party that the party has to admissibility; (E) a witness list of each witness that the party intends to call at trial, reasonably identifying the witness by name and relationship to the case, including expert witnesses with a designation of the party's proposal for the field of expertise that the expert witness has; (F) a proposed jury charge with specific citations to the most recent edition of the Pattern Jury Instructions; (G) a proposed jury verdict sheet; and (H) a joint statement (subject to the rules about joint letters) of each party's settlement position.
2. In respect of limited issue hearings, hearings on motions, and any other sort of hearing, the rules set forth in paragraph 1 immediately above also apply if the Court orders a pre-hearing conference; if the Court does not order a pre-hearing conference, then the rules set forth in paragraph 1 immediately above apply, but the deadline is 10 days before the hearing (unless the hearing is fewer than ten days away, in which case, the deadline is noon on the day before the hearing).

B. Jury Trials

1. All jury and non-jury trials will begin promptly at the date and time the Court orders and will continue day-to-day. Unless the trial date is set fewer than two months in advance, 22 NYCRR 125.1 (g) applies to all jury trials, so no adjournments will be granted upon the engagement of counsel.
2. Within 30 days of the conclusion of a non-jury trial, counsel must file with the Court a settled transcript of the trial. Counsel must order the transcript **before** the

trial to enable the court reporter to plan for the production of transcripts and must confirm the order immediately after the trial. Counsel may request by joint letter application extensions of this deadline only for extraordinary circumstances and/or the non-receipt of the transcript within 20 days after the conclusion of the trial.

V. SPECIAL RULES FOR FORECLOSURE MATTERS

A. Referees

1. Once the Court appoints a referee, each of the parties must thereafter serve all papers upon the referee in addition to any other service requirements.
2. All Referees must consult with and coordinate the date and time of auctions with the Fiduciary Department of the Supreme Court and may not schedule or advertise an auction without first having the Fiduciary Department's approval for such date.

B. Proposed Orders of Reference

1. In addition to all other legally required matters, counsel must include in a proposed order of reference the following language:

ORDERED that plaintiff be, and hereby is, directed to cause any proposed judgment of foreclosure and sale to include a provision that directs the Referee to comply with all county rules regarding surplus monies in accordance with all Administrative Orders and other authorities including all Suffolk County Local Rules;

2. In addition to all other legally required matters, counsel must include in a proposed order of reference the following language: ORDERED that the Referee may take oral testimony without an order of the Court, and shall promptly thereafter make application for such reasonable additional fee as the Referee deems proper in light of the additional time and effort so expended.

C. Judgments of Foreclosure and Sale

1. In the portion of the judgment of foreclosure and sale relating to costs and disbursements, counsel must leave a blank for such amount and include in the judgment of foreclosure and sale the following language as to each of costs and disbursements "as taxed by the clerk and inserted herein"
2. To be awarded attorney fees in an amount of \$3,000 or more, the motion papers must, among all other requirements, demonstrate compliance with or an exception from the rules set forth at 22 NYCRR 1215.1 *et seq.*

VI. GENERAL

A. Joint Letters or Other Joint Item

1. When the Court requires a joint letter or any other joint item, all counsel must be available reasonably in advance of the Court's or the circumstances' deadline for filing such letter or item and must meaningfully participate in the preparation of the joint letter or item. If counsel violates this rule, then the author of the joint letter or item should set forth the circumstances of the claimed violation in the joint letter or item, and the Court will set a hearing date to determine (i) whether a violation occurred and (ii) which party(ies) or counsel(s) against whom to impose remedies.
2. All joint letters and items must include all counsel's input and must have all counsel's approval. Where approval is impossible (for example, one party's position is that a document is discoverable while the other party disagrees), the joint letter or item should succinctly set forth each party's position, which satisfies the requirement of approval because approving an accurate statement of an adverse party's position is not a concession.
3. All joint letters or items must be no longer than three pages, including signature blocks, addresses, and any footnotes. All type must be twelve-point or larger, proportionately-spaced, serified font (such as Times New Roman), and side and bottom margins must be one inch.

B. E-Filing

Pursuant to the June 9, 2020 Administrative Order 121/20 of the Chief Administrator, "in courts and case types approved for electronic filing through the New York State Courts Electronic Filing System (NYSCEF), represented parties must commence new matters or proceed in pending matters exclusively by electronic filing." Therefore, all represented parties must convert any non-electronic filing cases to e-filing immediately using the process set forth at 22 NYCRR 202.5-b (b) (2) (iv). No motion, petition, or other paper application to the Court will be acted upon unless the case is either not eligible for e-filing or is already converted to e-filing.

C. Other

1. The Court may, in a specific case, order a variance from these Part 70 Rules, either at counsel's request or on the Court's own discretionary determination.
2. Counsel should not fax or email chambers, except if the Court specifically authorizes communication in that form. All correspondence and communication should be via letter filed via NYSCEF, except for telephone calls that are absolutely necessary either to clarify how to proceed or to alert the Court to a particularly time

sensitive matter. Counsel must be thoroughly familiar with 22 NYCRR 100.3 regarding *ex parte* communication with the Court, which includes the Court's chambers and other staff.

3. Counsel must immediately make a proper filing if counsel settles or seeks to withdraw any motion, action, special proceeding, or other matter pending before the Court. The failure to comply with this rule (a) will cause the Court to devote limited resources to an unnecessary matter and (b) prejudices the administration of justice.
4. The Court will strictly enforce all deadlines, especially those set forth in court orders that arise from conferences. Except in extraordinary circumstances where a later application to extend a deadline is made, counsel must make any application to extend a court-ordered deadline at least 15 business days before the deadline. Counsel must set forth in the application good cause for the extension and whether other parties consent. Consent of all counsel is relevant but not dispositive of good cause. Consent of all counsel alone is not good cause to extend a deadline.
5. The Court will conduct hearings and make any appropriate remedial orders for violations of these Part 70 Rules, including the failure to adhere to any deadlines.

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