

STATE OF NEW YORK
UNIFIED COURT SYSTEM

THE HON. MARTHA L. LUFT
Acting Supreme Court Justice

CHAMBERS

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IAS/TRIAL PART 50 - RULES & PROCEDURES

Due to the Covid-19 pandemic, unless the parties have received a date, time, Microsoft Teams link or telephone number with a Meeting ID, ALL APPEARANCES, including compliance conferences, have been and will continue to be administratively adjourned.

If the Court finds that a conference in a matter is necessary, the parties shall be notified via the New York State Courts Electronic Filing system (NYSCEF). Counsel or parties who wish to schedule a conference before the Court must submit a written request, either emailed to the virtual chambers email address, or via fax (both noted above), on notice to all parties to the action. Email communications are strongly preferred. Unless otherwise noted in communications from chambers or orders, all such appearances shall be conducted virtually via Microsoft Teams or telephone.

After the initial virtual court appearance, no further notice of future appearances shall be provided to the parties, and the parties shall be responsible for calendaring any adjourned dates.

Unless otherwise directed by the court, the following rules shall govern practice in Part 50:

1. CORRESPONDENCE

COMMUNICATION WITH THE COURT: All correspondence to the Court shall be emailed to sufluft@nycourts.gov or submitted by fax, with all parties included in such communication. All such correspondence shall be limited to two (2) pages in length, excluding the cover sheet, and the Court will not consider any correspondence in excess of this limit.

ANY inquiry as to an existing matter before the Court (i.e. motions, conferences, etc.) must be emailed to chambers, on notice to all parties. **Any telephone calls as to such matters, or email sent to other addresses, may not be answered.**

STIPULATIONS, WITHDRAWAL OF MOTIONS, AND SUBPOENAS: All stipulations (*e.g.* adjournment, discontinuance) executed by the parties must be uploaded **and** a copy then emailed to chambers. A moving party who wishes to withdraw his or her motion or application must file a letter stating such on NYSCEF **and** email a copy to chambers. If a party wishes to have the Court “so order” a subpoena, a copy **must** be emailed to chambers in PDF format, and a signed copy will be provided via email only.

EX PARTE COMMUNICATIONS WITH CHAMBERS: Except to the limited extent permitted by the Part rules and the rule set forth by 22 NYCRR 100.3 (B) (6), *ex parte* communications (without including all other parties to the action) with the Court or any member of its staff, by telephone or otherwise, are strictly prohibited.

2. MOTION PRACTICE

RETURN DATES/SUBMISSIONS: All motions made in cases assigned to Justice Luft shall be calendared for submission on **Tuesdays**. Unless adjourned by the Court or withdrawn by the movant, all motions appearing on the Court’s Tuesday motion calendar shall be marked submitted. Appearances are not required on any motion unless oral argument has been requested and granted or scheduled by the Court. All requests for oral argument must be made in accordance with 22 NYCRR 202.8 (d).

PAPERS: Timely interposition of all papers in accordance with the CPLR is required, as the Court will not consider the merits of any papers, including opposition, cross-motion, or reply, which have not been interposed in accordance with the CPLR or 22 NYCRR 202.8. The timely submission of memoranda of law is expected in all special proceedings and on motions which include demands for dispositive relief.

Length of Motion Papers: In accordance with the recent amendments to 22 NYCRR 202.8-b:

(i) Affidavits, affirmations, and memoranda of law in chief are **limited to 7,000 words each** (15 pages single-spaced or 30 pages double-spaced);

(ii) Reply affidavits, affirmations, and memoranda **shall not exceed 4,200 words** (8.5 pages single-spaced or 17 pages double-spaced).

All page lengths are exclusive of the caption, table of contents, table of authorities, and signature block (see 22 NYCRR 202.8-b [b]). In addition, every brief, memorandum, affidavit, and affirmation shall include a page attached at the end of the document by which the filing attorney certifies that it complies with the word count limit and sets forth the number of words in the document (*see* 22 NYCRR 202.8-b [c]).

ADJOURNMENTS: Adjournments of motions are limited to three in number and may not extend the original return date for more than sixty (60) days unless prior permission of the Court is obtained (22 NYCRR 202.8 [e]). *All proposed adjourn dates must fall on a **Tuesday**.* An application for an adjournment of a motion may be made by submission of a written request containing the stipulated consent of counsel for all appearing parties. All stipulations of adjournment must be received by Chambers no later than 2:00 p.m. on the day prior to the return date, and may be forwarded by email or fax directly to Chambers. The stipulations must indicate the date on which the motion and any cross-motions riding therewith are returnable before the Court; the adjourn date requested (**Tuesdays only**); and the number of prior adjournments granted. If the stipulated consent of all appearing parties is not obtainable, the party requesting the adjournment shall email chambers, on notice to all parties, **at least three (3) business days** prior to the return date. Upon review, the Court may grant the adjournment over objection, or schedule a virtual conference with the parties.

DISCOVERY MOTIONS: No motion related to disclosure or bills of particulars may be made unless and until a pre-motion conference has been conducted by this court, notwithstanding that a preliminary or other conference may have been conducted by Justice Luft or another justice previously assigned the action. The purpose of the pre-motion conference will be to resolve the dispute between the parties, whether by stipulation or by order of the court. Counsel should be prepared to argue his or her position with regard to the disputed disclosure on the date of the conference. In the event the dispute cannot be resolved, the court may grant permission to make an appropriate motion addressed to the disputed disclosure.

Any request for such a pre-motion conference shall in writing and shall specify the items of disclosure or particulars in dispute. This written communication shall contain an affirmation by counsel that a good faith attempt to resolve the dispute without judicial intervention has been made. Opposing counsel shall advise chambers in writing of their position on the issue, within a week of the request for the pre-motion conference.

3. CONFERENCES

SCHEDULING: Conferences shall be calendared for any **Tuesday** the Part is in session. Based upon the exigencies of the Court's calendar, some conferences may be scheduled on Thursdays.

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). Attorneys are directed to have available all prior orders, including, but not limited to, preliminary conference orders and additional directives sheets issued by the Court, to all Court conferences.

ADJOURNMENTS: Applications for adjournments of conferences are governed by the same procedures applicable to adjournments of motions (see above), as well as those applicable to communications with chambers.

PRELIMINARY CONFERENCES: Until further notice, all Preliminary Conferences are being conducted virtually. As such, prior to the preliminary conference date, the parties shall confer and complete a proposed stipulation and preliminary conference order, a link to which may be found here:

https://www.nycourts.gov/LegacyPDFS/courts/10jd/suffolk/PDF/20200630_PC_Stip_and_Order%20form.pdf. The parties shall leave the “end date for disclosure” and “compliance conference” dates blank, as these dates shall be added by the Court. The plaintiff’s counsel shall file such order on NYSCEF no less than one business day prior to the conference date. **Please note that no in-person or virtual appearance before the Court is required or will be scheduled on the preliminary conference date.** If the parties are unable to agree on the terms of the proposed order, they may email chambers to request a virtual conference to resolve the dispute.

COMPLIANCE CONFERENCES & PRE-TRIAL CONFERENCES: If the parties wish to certify their action ready for trial, they shall complete a revised proposed Compliance Conference Order, which is available upon request either during a scheduled compliance conference or via email to sufluft@nycourts.gov, on notice to all parties. The parties shall sign the proposed order and leave the dates for the note of issue to be filed and for a pre-trial conference blank, as these dates will be added by the Court. The plaintiff’s counsel shall email a copy of the signed order to chambers. **The Court will only accept this form of the Compliance Conference Order, and any incomplete or defective proposed orders, or orders from other court parts shall be rejected.**

Nonjury Trials: If a nonjury trial has been selected, then a pre-trial conference shall be held for the purposes of scheduling it. Plaintiff’s counsel shall request such conference **no less than two business days prior** to the pre-trial conference date contained in the Compliance Conference Order. Chambers will notify the parties of the pre-trial conference date, which may be on a different date from that noted in the Compliance Conference Order.

Jury Trials: If a jury trial has been requested or demanded, then the matter will be remanded to Calendar Control Part (CCP) on the pre-trial conference date, unless counsel requests a conference **no less than two business days prior** to the pre-trial conference date. Any requests made after this time may not be considered. Please note that such conference may not be on the pre-trial conference date on the Compliance Conference Order.

4. TRIALS:

JURY TRIALS: A trial conference with the Court shall be held immediately prior to the commencement of all jury trials, at which counsel shall supply the Court with marked pleadings, any amendments thereto, and all bills of particulars served. Counsel shall further provide the

Court with a list of proposed jury charges, the contentions of each party, any motions *in limine*, 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 notify the Court of their inability to stipulate to the admission of any exhibits to be offered at trial. Counsel shall further advise the Court of the witnesses to be called, and if any are experts, shall further provide the information required by CPLR 3101(d)(1)(I). Any document in evidence that is over fifteen pages in length **must be paginated** in some fashion before use at trial.

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 brief pre-trial memorandum of law. 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.

5. MISCELLANEOUS MATTERS:

E-FILINGS: In accordance with Covid-19 protocols, chambers no longer requires working or hard copies of motions or application papers.

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 copies of all pleadings served. Compliance with the provisions of CPLR 1207, 1208, and 22 NYCRR 202.67 and a proposed distribution of net amounts to be recovered by the disabled plaintiff that is consistent with 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 the 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 shall be scheduled by the Court with directions for service.

Revised March 2021