



HON. ROBERT F. QUINLAN
SUPREME COURT of the
STATE OF NEW YORK
COUNTY OF SUFFOLK
Hon. Alan D. Oshrin Supreme Court Building
1 Court Street - Room 237
Riverhead, New York 11901
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JAMES FAGAN
Principal Law Clerk

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PART 27

COURT RULES

(For Attorneys and Self-Represented Parties)

Unless otherwise directed by the Court, the following rules shall govern practice in Part 27:

MOTION PRACTICE

- 1. RETURN DATES/SUBMISSIONS:** All motions assigned to Justice Quinlan shall be made returnable on Tuesdays and shall be marked submitted on the return date unless the parties have been granted an adjournment in accordance with the procedure outlined below, or in non-NYSCEF filed actions the motion is adjourned awaiting submission of working copies. Any motion made returnable on another date will be submitted on the next Tuesday. All papers shall be submitted in accordance with the CPLR and 22 NYCRR § 202.8-a through g, except that a Statements of Material Facts is required on all motions for summary judgment. Moreover, each numbered paragraph in the stated required to be served by the opposing party. The Court will not consider any papers which are untimely served or which are not permitted pursuant to the CPLR.
- 2. APPEARANCES/ORAL ARGUMENT:** No appearance is necessary on the return date. Unless oral argument is specifically directed by the Court all motions will be decided on written submission only.

Any Temporary Restraining Order contained in an Order To Show Cause assigned to this Part, will remain in effect until a decision is rendered, unless the restrained party contacts chambers and all other parties in writing prior to the original return date of the Order To Show Cause asking for an immediate review of the Temporary Restraining Order. The Court will then provide a method for all parties to be heard on the return date, or any agreed upon adjourned date, on the limited issue of continuing the Temporary Restraining Order.

- 3. ORAL ARGUMENT OF CERTAIN MOTIONS:** The court, in its discretion, will schedule oral argument of selected motions. Counsel will receive notice from the court of the date for such argument. At the conclusion of the argument, the court may issue a decision from the bench. Failure

to appear at oral argument will be considered a default in the opportunity to orally argue pursuant to 22 NYCRR §202.27 and the court will decide the motion upon the papers submitted and the oral argument of counsel who do appear. Counsel may be required to provide a transcript of the Court's oral decision so that the Court may sign it to provide appealable paper.

4. **ADJOURNMENTS:** Adjournments shall comply with 22 NYCRR §202.8 (e). All proposed adjourned dates must be a Tuesday. All adjournment requests shall be in writing and indicate the reason for the adjournment, the index number, appearance date, proposed adjourned date whether opposing counsel/self-represented party consents or does not consent to the request and must be copied to opposing counsel/self-represented party. All requests for adjournments must be submitted through the Court's email address: sufquinlan@nycourts.gov.

- All adjournment requests on motions must be communicated to the Court **by 3:00PM of the day prior** to the proposed submission **via the courts email address sufquinlan@nycourts.gov**. **THIS APPLIES TO ALL CASES, WHETHER FILED IN THE NYSCEF SYSTEM OR NOT.** Do not request an adjournment by merely filing a request in NYSCEF.
- Adjournments on consent shall be confirmed in writing and shall be effective unless the Court otherwise directs.
- No more than three stipulated adjournments will be permitted.
- Application for a fourth or subsequent adjournment must be timely made in person before the Court, upon notice to all parties, and will be granted only upon good cause shown.

5. **FORMAT:** All motion papers shall comply with 22 NYCRR §202.8-a through g. All affidavits and exhibits shall be identified by separately and consecutively numbered or lettered tabs affixed to either the right side or bottom of the page. Legal memoranda, exclusive of exhibits, whether in the form of a brief, memorandum of law or affirmation of counsel, shall not exceed 20 pages in length; reply memoranda shall not exceed 10 pages (exclusive of exhibits). Failure to comply with these requirements will result in rejection of the papers, unless counsel obtains the prior permission of the court to exceed these limits providing good cause therefor. Only official citations to cases need be used.

A party who does not participate in NYSCEF will not be provided with a copy of an order or decision unless a self-addressed, stamped envelope is provided to the Court with the moving papers.

6. **WORKING COPIES:** "Working copies" of motions, together with supporting papers and exhibits, are only required **if the case is not one filed in NYSCEF**. In such circumstances, "working copies" must be provided to the Court at the time the motion is submitted, if they are not, such motion will be adjourned until they are submitted.

In such non-NYSCEF motions, the initial moving party is responsible for providing the working copy of **ALL** submissions, including affirmations/affidavits in opposition, cross-motions, reply affirmations/affidavits, exhibits, and proposed orders/judgments, as well as any stipulations or correspondence pertaining to the motion and any cross-motion, to Justice Quinlan's Chambers no later than one day prior to the return date or any adjourned return date. Counsel are requested to

work together to see that working copies of all such submissions are provided to the court.

Where such non-NYSCEF motions submissions are voluminous, and the initial moving party so requests, the Court may require that opposing counsel provide working copies of their submission to the initial moving party for the purpose of submitting working copies of same to the court.

- 7. 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 before the Court, and/or the settlement or discontinuance of any case with a motion(s) pending before the Court.

TRIALS

- 1. 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, any amendments thereto, all bills of particulars served, copies of any prior decisions in the case and copies of any stipulations entered into. Counsel shall further provide the Court with a list of proposed jury charges, the contentions of each party, and proposed jury verdict sheets (22NYCRR 202.20-h[c]). 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 be experts, shall further provide the information required by CPLR 3101 (d) (1) (I). A party intending to examine a witness using a transcript of the witness' prior to testimony shall provide the court with a copy of the transcript.

- 2. NON-JURY TRIALS:** Non-jury trials are subject to scheduling by the Court. A conference with the Court shall precede the commencement of all non-jury trials at which counsel shall submit the following: (1) a copy of marked pleadings, any amendments thereto, and bills of particulars; (2) a list of pre-marked exhibits, and identification of those on which counsel could not agree as to their introduction at trial; (3) a list of witnesses, and if any be experts, the information required by CPLR 3101 (d) (1) (i); (4) a proposed statement of material facts and (5) pretrial memoranda 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 scheduling of any trial.

CONFERENCES

- 1. VIRTUAL CONFERENCES:** Presently, it is the preference of the Court to hold all conferences in cases where all sides are represented by counsel by Microsoft TEAMS. The Court's TEAMS link may be reached using the link included at the bottom of any email from this Court. The link may also be found in E-Cts/NYSCEF along with the original notice sent by the Court to schedule the conference, further a copy of the link is provided at the end of this paragraph. The Clerk's Office is not able to send out new link notifications after every adjournment, so please be mindful of these links.

[Click here to join the meeting](#)

- 2. IN-PERSON CONFERENCES:** In cases where all parties are represented by counsel, upon request

and agreement of all counsel, or in the Court's discretion, in-person conferences may be held in the part, consistent with all safety and capacity requirements set by the directives of the District Administrative Judge. All conferences and appearances, other than submission of a motion, in cases **WHERE A PARTY IS SELF-REPRESENTED** are required to be held in person in the part, consistent with all safety and capacity requirements set by the directives of the District Administrative Judge.

3. PARTICIPATION IN ALL CONFERENCES: All parties are to be represented at any conference before the Court by counsel who are familiar with the issues and law involved in the case and who are prepared to discuss not only outstanding discovery issues, but also settlement. The purpose of such conferences is to resolve outstanding issues so that the case may either be settled or moved on to the trial calendar. Failure of counsel to appear with such knowledge and ability may be taken by the Court to be a failure to answer "ready to proceed" at the call of the conference and the court may take action under such circumstances as is authorized by 22 NYCRR §202.27 against the failing party.

5. PRELIMINARY CONFERENCES: Any non-foreclosure case assigned to this part which did not execute a Preliminary Conference Order in DCM must schedule a date for submission of a proposed Preliminary Conference Order. Prior to the scheduled date, the parties must prepare a proposed Preliminary Conference Order.

If the parties consent on all issues, the proposed Preliminary Conference Order should be submitted at least two days prior to the scheduled date of the Preliminary Conference in NYSCEF and the parties shall notify the Court of the filing by email. On the date of the Preliminary Conference, the parties need not attend, and the proposed Preliminary Conference Order will be reviewed by the Court, and will be signed by the Court, along with any additions or changes the Court deems proper.

If the parties do not consent to all issues, the parties must appear on the scheduled date of the Preliminary Conference, with a proposed Preliminary Conference Order filled out as to all issues to which the parties consent, and be prepared to discuss and resolve the issues in dispute. If after a conference with the Court an agreement cannot be reached by the parties as to the issues in dispute, the Court will determine those issues.

Any proposed changes in any Preliminary Conference Order in cases assigned to this part, either executed in DCM or this part, must be made in writing and filed in NYSCEF, and the parties shall notify the Court of the filing by email. Such changes will be then discussed at the next status conference.

MISCELLANEOUS MATTERS

1. COMMUNICATION IN NYSCEF FILED CASES: If a party files a letter in NYSCEF communicating to the court any request regarding the case, it must also send that communication to the Court using the Court's email: sufquinlan@nycourts.gov.

2. ADJOURNMENTS OF NON-CCP TRIALS OR HEARINGS: All requests for adjournments of non-CCP trials or hearings shall be in writing and indicate the reason for the adjournment, the index number, appearance date and proposed adjourned date, which date is subject to court approval.

- All adjournment requests must be communicated to the Court at least **48 hours** before the

calendar date. Such requests may be made by phone, through the Court's email address: sufquinlan@nycourts.gov. Adjournments on consent shall be effective upon approval by the court.

- Adjournment requests that are not on consent must be on notice to all parties, and may require a phone or Microsoft TEAMS conference with the Court.
- No more than two stipulated adjournments will be permitted, without a personal appearance by counsel for the parties, and further adjournments will be granted only upon good cause.

3. ENGAGEMENT OF COUNSEL: Requests predicated upon engagement of counsel must be by affidavit or affirmation in conformance with 22 NYCRR §125.1(e). If an adjournment is requested of an action scheduled for trial, counsel is reminded of the provisions of 22 NYCRR § 125.1 (g).

4. INFANT COMPROMISES: Infant compromise orders should be submitted to the court through the clerks office. Counsel will then be notified of the date for the infants appearance before the court. No infant compromise order will be signed unless accompanied by an appropriate medical report dated no earlier than six months prior to the date the order is submitted to the court. The medical report must state whether or not the infant has made a full recovery. If further medical treatment is required, a detailed statement as to nature and extent of that treatment must be included. Additionally, in advance of submission of a proposed order, counsel should confirm with any bank which is the proposed recipient of funds that such bank does, in fact, accept compromise settlement funds.

5. 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.

6. FACSIMILE COMMUNICATIONS: Other than as may be provided for in these rules, no party shall fax any correspondence or papers to Chambers without prior permission of the court. Consents or requests to adjourn submission of a motion, hearing, or non-CCP trial date shall be sent to Chambers consistent with the Court's rules on Motion Practice **and not by fax.**

7. CONDUCT: All Courtroom personnel and Chambers staff are to be treated with courtesy and respect. Disrespectful, uncivil and unprofessional conduct will not be tolerated.

CERTAIN FORECLOSURE MATTERS

1. RPAPL § 1309 MOTIONS: In addition to complying with Part 27 general motion rules, such motions must meet the requirements set forth in RPAPL § 1309.

2. “COMBINED MOTIONS” IN CERTAIN OTHER FORECLOSURE ACTIONS: As RPAPL § 1321 allows the court in its discretion, upon granting of a default against a non-answering defendant to either refer the issues of computations of amounts due (other than attorneys fees) and owing and whether or not to sell the property in parcels to a referee or to act on those issues itself, this court will consider a motion by plaintiff to fix and set the default of a non-answering defendant mortgagor(s) and to perform the computations and decisions under RPAPL § 1321 itself only under the following conditions:

- I. Only foreclosure actions involving residential properties that are not “Reverse Mortgages” will be considered.
- II. Plaintiff must provide proof that neither the mortgagors or any other titled owner of the property being foreclosed resides at the property.
- III. The defendant[s]-mortgagor[s] must have defaulted by not answering or moving on the complaint after the scheduled conference in the Foreclosure Settlement Conference Part.
- IV. Plaintiff's application must meet all legal requirements and proof required for a default pursuant to CPLR § 3215, RPAPL § 1321 and for a judgment of foreclosure and sale pursuant to RPAPL § 1351, including but not limited to proof of service of the summons, complaint, notice of pendency and other statutory requirements; and the filing of any affirmation/affidavit required by statute (CPLR 3012-b) or Administrative Order. (Plaintiff's attention is drawn to the requirements of CPLR § 3215 [c], as well as to the requirements of CPLR 4518 in its submission of proof of amounts due and owing, as well as other expenses allowed pursuant to the terms of the mortgage.)
- V. There must be no pending application for a loan modification or other loss mitigation.
- VI. Plaintiff's application must waive a deficiency judgment (RPAPL § 1371). By submitting a combined motion to this part, plaintiff will be deemed to have consented to the waiver of a deficiency judgment.
- VII. There must be no answer filed by any other defendant that requests any relief other than protecting their position upon a surplus or is merely a notification of a sale.
- VIII. No ex parte “combined motions” may be made. All “combined motions” must be made on notice to defendants with proof of mailing pursuant to CPLR 2103 (f).
- IX. Referees appointed to conduct a sale under a combined motion shall be authorized a fee of \$750, if there are any cancellations or adjournments, the referee may make an application for additional fees by letter to the court, as will be set forth in the judgment.
- X. In addition to that language generally included in separate motions for an order of reference or a judgment of foreclosure, the papers submitted in support of the combined motion shall also indicate the following:
 - a. The captioned relief requested is “Fixing Default and Judgment of Foreclosure and Sale,” this will identify the case and **MUST BE PROMINENTLY DISPLAYED**.
 - b. All exhibits to the motion are to have tabs on the right hand side or bottom of the page so that they can be easily referenced;
 - c. A breakdown of interest and charges, and a computation sheet (as would be submitted to a referee to compute) are to be included in the motion. Plaintiffs are again reminded of the requirements of CPLR 4518 in their submission of proof of

amounts due and owing, as well as other expenses allowed pursuant to the terms of the mortgage.

- XI. The preamble to the “ORDERED” paragraphs in any proposed order shall include the following:
- a. that plaintiff is making a combined application for default and for a judgment of foreclosure and sale, and upon determining the default, the court itself, pursuant to RPAPL §1321, will ascertain and determine the amounts due and whether the premises shall be sold in parcels and then issue a judgment of foreclosure and sale pursuant to RPAPL § 1351;
 - b. an acknowledgment that by submitting the motion, the plaintiff is **waiving its right to a deficiency judgment** and accepts the sale of the property in full satisfaction of the mortgage debt;
 - c. list those sections of the CPLR and RPAPL that plaintiff has complied with to be entitled to the default and judgement of foreclosure;
 - d. that there is an unexpired notice of pendency filed.
- XII. Any proposed judgment must contain language complying with the above requirements of this Court, all current Suffolk County Administrative Orders relating to foreclosures, including the Suffolk County Foreclosure Action Surplus Monies form and the scheduling of the actual sale with the Fiduciary Clerk’s Office, as well as the provisions of RPAPL § 1351 relating to foreclosure sales.
- XIII. Additionally, Suffolk County has its own Foreclosure Action Surplus Monies form, which can be found at www.nycourts.gov/courts/10jd/suffolk/Forms/Surplus-Money.pdf. It is to be filed with the Supreme Court Calendar Clerk and the Suffolk County Clerk, not Part 27.
- XIV. Any “combined motion” which does not meet the Court’s criteria for such motion, or which fails to follow these procedures will result either in denial of the motion or, in the court’s discretion, the court treating the motion as only one to set the default of the defendant[s] and appointment of a referee to compute.

IT IS THE POLICY OF THE COURT THAT IF A DEFENDANT-MORTGAGOR OPPOSES THE MOTION AND SEEKS BY MOTION/CROSS-MOTION TO VACATE A DEFAULT IN ANSWERING AND FILE A LATE ANSWER, IF SUCH APPLICATION IS GRANTED, THE CASE SHALL BE TRANSFERRED TO THE GENERAL INVENTORY OF PART 27 AND PROCEED IN THE OTHERWISE USUAL FASHION.

(November 2022)