



# Honorable Vincent J. Martorana

Supreme Court of the State of New York

County of Suffolk

1 Court Street - Room 148-A

Riverhead, NY 11901

(631) 852-2864 fax 631-740-3989

Sufmartorana@nycourts.gov

Principal Law Clerk:

Janeen M. Howarth

Secretary to Judge:

Frances Vandewater

*Amended as of 7/27/2022*

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## IAS/TRIAL PART 23 - RULES AND PROCEDURES

### MOTION PRACTICE

1. All motions assigned to Justice Martorana shall be made returnable on Thursdays and will be marked submitted on return date unless an adjournment has been granted in accordance with the procedure outlined below. Timely interposition of all papers in accordance with the CPLR is required, as the court will not consider the merits of any papers, including cross motions or replies, where the adverse parties have not had the opportunity to respond. All motions are on submission unless the parties are otherwise notified by the Court.

2. Motion papers shall comply with the form and length restrictions prescribed in 22 NYCRR §202.8 et seq. All affidavits and exhibits shall be identified by separately and consecutively numbered or lettered tabs. Legal memoranda must not exceed 7,000 words in length, reply memoranda must not exceed 4,200 words. Both official and unofficial citations to cases are required. Copies of orders or decisions will not be furnished unless a self-addressed, stamped envelope is supplied with the motion papers.

3. Consistent with 22 NYCRR §202.8(f), no motion related to disclosure or bills of particulars may be made unless and until a conference has been conducted by this court, notwithstanding that a preliminary or other conference may have been conducted by Justice Martorana or another justice previously assigned the action. The purpose of the 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.

The pre-motion conference may be conducted in conjunction with a regularly scheduled discovery conference or may be requested by correspondence emailed or faxed to the Court with copy to opposing counsel or unrepresented party. Such correspondence should briefly summarize the nature of the dispute.

4. Requests for adjournments of motions and cross-motions that are on consent may be submitted by emailed request to [sufmartorana@nycourts.gov](mailto:sufmartorana@nycourts.gov), copying all parties, or by contacting Frances Vandewater in chambers at 631-852-2864 or by filing such request in NYSCEF. Emailed requests for adjournments on consent will be granted by emailed approval by chambers. Efiled requests for adjournment, if granted, will appear as an updated return date in ecourts at nycourts.gov. Verbal requests, once granted, must be followed by written confirmation of such request, copied to all parties, and must be received prior to the return date. Written requests to adjourn or confirmation of verbal request should indicate the consent of all parties and should be copied to all parties. Adjournments are limited to three in number and may not extend the original return date more than 60 days, unless good cause is shown.

Where the consent of all parties cannot be obtained, an application for an adjournment must be made by email to chambers prior to the return date of the motion. Such email, with copy to all parties, must set forth the reason for the request and the amount of time being sought. The email must also indicate that consent was sought and not given and affirm that all parties received notice of the application.

5. The parties shall immediately email, efile or fax written notice to the Court of the withdrawal or settlement of any motion, or portion thereof, or settlement of any case for which a motion is pending. Failure to promptly notify the Court by faxed, emailed or efiled correspondence may result in sanctions.

## CONFERENCES

1. In all actions requiring same, there shall be a preliminary conference at which the parties shall enter into a Preliminary Conference Stipulation/Order, which will be "so-ordered" by the Court, which schedules the disclosure necessary in a given case. The progress of the parties in completing disclosure shall be reported to the court at any and all compliance conferences which are scheduled thereafter.

When all disclosure is complete, the parties shall execute a "Compliance Conference Order (with Cert)" which certifies that all discovery is complete. The court will insert the note of issue filing date and the pre-trial conference date, if such conference is required. If there is a pre-trial conference date which has "no appearance required" written next to it, such date is a control date for internal purposes and no appearance is required on that date. Please check to see if your Compliance Conference Order (With Cert) (aka Certification Order) contains the

language "no appearance required" before calling the court to inquire as to whether or not an appearance is required. No order shall be entered certifying a case as ready "subject to" the completion of disclosure at a future date without express permission of the Court. A copy of the Compliance Conference Order with certification must be filed with the Note of Issue. If a Pre-Trial Conference is required, the parties should be prepared to discuss settlement at such conference.

2. No party may file a Note of Issue and Certificate of Readiness without first having entered into a Compliance Conference Order certifying that disclosure has been completed and that the case is ready for trial.

3. Adjournments of conferences may be obtained in advance by emailed request to [sufmartorana@nycourts.gov](mailto:sufmartorana@nycourts.gov), copying all parties, or by contacting Frances Vandewater in chambers at 631-852-2864. Verbal requests, once granted, must be followed by written confirmation of such request, copied to all parties, and must be received prior to the return date. Written requests to adjourn or confirmation of verbal request should indicate the consent of all parties and should be copied to all parties.

4. Parties shall follow [ecourts at nycourts.gov](https://ecourts.nycourts.gov) for appearance requirements. Dates and times of appearances will be noted, along with mode of appearance. Conferences are being held via Microsoft Teams ("Teams") or in-person ("in person") at the court's discretion. If the notation in [ecourts](https://ecourts.nycourts.gov) indicates "update court" or "provide status to court," the parties shall confer and provide correspondence to the court via email indicating the current status of discovery production, discovery demands and other relevant matters. If the notation indicates "submit stip," a stipulation scheduling the remainder of outstanding discovery must be submitted to the court via NYSCEF to be "so ordered." Notations of "update court," "provide status to court" or "submit stip," do not require an in-person or Teams appearance on that date but the required information must be provided in advance of the conference date. After such submission, the parties shall follow [ecourts](https://ecourts.nycourts.gov) for information regarding the next appearance date.

5. If a Teams conference has been scheduled in your case and you believe that you have not received a link from the Court, please contact chambers a few days before the conference. Such links are sent to the parties whose email addresses are on file with NYSCEF for your case. If your email address is not on file with NYSCEF, please check with the person in your office whose email address is on file BEFORE contacting the court to obtain the link. It is likely that such person will have received the link 7 to 10 days prior to the conference date.

6. If at any time during the pendency of the case the parties believe that a settlement conference might be productive, the parties may contact chambers via email at [sufmartorana@nycourts.gov](mailto:sufmartorana@nycourts.gov) to request a settlement conference.

## MISCELLANEOUS

### 1. Non-jury trials

For all non-jury trials, Justice Martorana requires a pre-trial conference regarding the issues to be determined. Pre-trial memoranda of law may also be required in which both official and unofficial caselaw citations are to be provided. All trial exhibits must be pre-marked.

### 2. Jury Trials

A trial conference with the court shall be held immediately prior to the commencement of all jury trials. At such conference, counsel shall supply the court with the following: marked pleadings, amended pleadings, all bills of particulars served, a list of proposed jury charges and proposed jury verdict sheets. All trial exhibits must be pre-marked. A list of all pre-marked exhibits shall also be provided to the court and to the stenographer. Counsel shall advise the court as to the number and type of witnesses to be called. If expert witnesses are to be called, Counsel shall provide the Court with 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 court's review.

### 3. Infant Compromises.

Infant compromise orders should be submitted to the court through the Clerk's Office. Counsel will then be notified of the date for the infant's appearance before the court. No infant's 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. Please provide information to the court with your submission indicating whether or not the Defendant or Defendants have waived their appearance for all purposes.

In some cases, a pre-hearing conference may be required. If such conference is required, the appearing attorney shall be fully familiar with and prepared to discuss all aspects of the case.

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 infant compromise settlement funds.

4. Appearances

Except in the case of unrepresented litigants, all appearances before the court shall be by an attorney admitted to practice in the State of New York, who must be fully authorized to act on behalf of his/her client.

Courtroom personnel and staff are to be treated with courtesy and respect. Disrespectful, uncivil and unprofessional conduct in the courthouse will not be countenanced.

5. Faxes

Faxes to the Court shall be on notice to all parties and shall not exceed three pages without express permission of the Court.

6. Correspondence in EFiled Cases

All correspondence faxed, emailed or mailed to the Court should also be efiled and any efiled correspondence to the Court must also be faxed or emailed to chambers.

7. All emails to the court must copy all parties.

8. Early Settlement Conferences

See separate Early Settlement Conference Requirements.



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## EARLY SETTLEMENT CONFERENCE (ESC) REQUIREMENTS

To be submitted 10 days before conference date:

1. Copy of Bill of Particulars
2. Copy of any/all narratives by treating physicians and Independent Medical Examinations (IME's including any/all No Fault and Worker's Compensation IME's) and copies of any Worker's Compensation scheduled loss
3. Hospital ER Ambulance and discharge summaries
4. Any and all test results and/or independent reviews to include x-rays, cat scans, MRI's, EMGs etc.
5. Any and all photographs of car accident scene, property damage (including amount) and any relevant photographs of scarring and other injuries
6. Any and all accident reports (for MVA, a complete report to include any statements taken of the drivers or witnesses at the scene and overlay)
7. For non-tort cases - submit relevant documents and a position statement by each party
8. The total submission to the court containing any or all of the above, as appropriate, shall not exceed 25 pages.