



**HON. ALISON J. NAPOLITANO**

**SUPREME COURT JUSTICE**

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***CIVIL PART 74  
COURT RULES AND PROCEDURES***

Effective: February 7, 2024

Unless otherwise directed by the Court, the following rules shall govern practice in this part:

**Correspondence**

All correspondence to the Court shall be made through NYSCEF, except in non e-filed cases which correspondence shall be made by email. When communicating with Chambers, kindly remember to reference the index number and include all parties/attorneys.

The Court's e-mail is NOT to be used as a forum to argue the merits of your case or your positions. Also, it is not to be used for communication between parties (i.e., choosing dates for conferences). Time spent by staff on deciphering extraneous, inappropriate and unnecessary communications prohibits chambers from functioning in an effective and efficient manner.

**Motion Practice**

**DISCOVERY MOTIONS:** Parties must confer in good faith on all discovery disputes and all discovery motions must be preceded by a conference with the Court. Said conference may be obtained by submission of a letter application, not exceeding one page in length, to the Court and copied to all parties. With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention resulting in the assignment of the case to this Court, no opposition papers shall be served until there has been a prior conference with the Court. Said conference may be obtained by submission of a letter application, not exceeding one page in length to the Court and copied to all parties. The application for a discovery conference may be made by the movant or by the opponent to the motion. However, the application must be made within eight days of service of the motion. Failure to request a discovery conference may result in the denial of the motion. The Court strongly urges that prior to requesting a conference, counsel discuss the issues and make a bona fide attempt to resolve them without judicial intervention.

**RETURN DATE/SUBMISSION:** All motions must be calendared on a Monday. Unless otherwise directed by the Court, motions are on written submission only and no appearance is necessary. All motions and orders to show cause made returnable on any day other than a Monday shall be administratively adjourned to the Court's next available Monday submission date.

**MOTION PAPERS FORMAT:** All motion papers shall comply with 22 NYCRR § 205.5, 202.5-a, 202.8 and 202.8(a)-(g) and all motions for summary judgment shall include a statement of material facts. Additionally, all motions, whether e-filed or not, must include an affidavit of service demonstrating all parties have been properly served and a proposed Order.

**ADJOURNMENTS:** An application to adjourn a motion must be made by written request which includes the consent of counsel for all appearing parties. All adjournment requests must be received by Chambers no later than 2:00 p.m. on the Thursday prior to the motion return date. The request to adjourn must indicate the date on which the motion and any related cross-motions are returnable before the Court; the adjourn date requested (Mondays only); and the number of prior adjournments. All applications for adjournment in e-filed cases shall be filed electronically through NYSCEF. All applications for adjournment in cases not electronically filed shall be made by email. If the consent of all parties cannot be obtained, 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. Interposition of a cross-motion with a return date subsequent to the submission date for the motion-in-chief will not automatically cause an adjournment of the motion-in-chief.

**ELECTRONICALLY FILED MOTIONS:** E-filed motions should be made returnable on **Mondays**, when the Part is in session. Working copies are not required to be submitted unless requested by the Court.

**PROPOSED ORDERS:** The moving party shall serve and electronically file a proposed order for the relief requested within the moving papers for any unopposed motions on or before the motion return date and/or submission date.

**SETTLED OR WITHDRAWN MOTIONS:** The Court is to be advised immediately, in writing, of the settlement or withdrawal of any motion or any portion of any motion pending.

Applications that are not submitted to the Court in compliance with these part rules or other applicable provisions of law are subject to Rejection.

### *Conferences*

**SCHEDULING:** All adjournment requests must be received by Chambers no later than 2:00 p.m. on the Thursday prior to the conference/appearance date. Requests for adjournment must be in writing; include whether or not the adjournment request is on consent and include a direct telephone number for each attorney handling the file so that the Court can communicate its determination regarding the request. Please call Chambers for available adjourn dates. All applications for adjournment in e-filed cases shall be filed electronically through NYSCEF. All applications for adjournment in cases not electronically filed shall be made by email.

Due to the time limitations imposed on various stages of civil cases within the purview of the Comprehensive Civil Justice Program and its cornerstone, the Differentiated Case Management system, adjournments of conferences will not be granted lightly. Appearances are required unless the Court has granted an adjournment on the consent of counsel for all parties and received a written confirmation.

**ENGAGEMENT OF COUNSEL:** Adjournments requested on the ground of engagement of counsel must comply with Part 125 of the Rules of Chief Admin of Cts (22 NYCRR) §125.1 and must include: (1) the basis for the priority to be afforded the other appearance; (2) the name of the case in which the engagement is required, the nature of the proceeding, the court, and where known, the assigned jurist; and (3) the date such engagement was incurred and whether the other court was made aware of the court date for which the adjournment is sought.

**APPEARANCES:** Appearances shall be made by the attorney of record or an attorney acting in an “Of Counsel” capacity. Attorneys and/or parties appearing must have full knowledge of the facts and authority to settle and/or enter appropriate stipulations. Attorneys are directed to bring all prior orders, including preliminary conference orders and additional directives issued by the Court, to all Court conferences.

**NON-APPEARANCES:** 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; 22NYCRR Part 130-2).

**PRELIMINARY CONFERENCES:** If an agreed Preliminary Conference Stipulation and Order (“PC Order”)(§§ 202.2 and 202.12 of the Uniform Rules) is completed and executed by all parties and same is electronically filed before the Preliminary Conference date, then no appearance is required. If the PC Order is not completed and electronically filed before the Preliminary Conference date, then the parties must appear in person in Courtroom 4.

**COMPLIANCE CONFERENCES:** Compliance Conferences will be held in person on Mondays at 9:30 a.m. in Courtroom 4.

**PRE-TRIAL CONFERENCES:** No pre-trial conference shall be adjourned when a Note of Issue has not been filed and a calendar number issued.

### *Trials*

**JURY TRIALS:** A conference with the Court shall be held immediately prior to the commencement of all jury trials. Counsel shall comply with 22 NYCRR 202.20-h and further, shall supply the Court with marked pleadings, amendments thereto, all Bills of Particulars, CPLR 3101(d) notices served, and all prior Court decisions. Each party shall e-file EBT transcripts and trial exhibits five (5) days before the commencement of trial. A list of all pre-marked exhibits shall be provided to the Court and the Court stenographer. Counsel shall further provide the Court with a list of proposed jury charges and the contentions of each party, all motions in limine and proposed jury verdict sheets. Counsel shall advise the Court of the identity and number of witnesses to be called, and if any be experts.

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.

**EXPERT WITNESS REPORTS:** Compliance with CPLR § 3101(d)(1)(i) is required. All expert witness reports are to be exchanged and filed with the Court no later than 60 days before the date set for trial, and reply reports, if any, shall be exchanged and filed with the Court no later than 30 days thereafter. Counsel shall ensure that expert witnesses are available to testify on the scheduled trial date. Failure to provide expert reports, timely, and/or the testifying expert on the scheduled trial date may result in preclusion of the expert's testimony and report.

**TRIAL EXHIBITS:** To the extent possible, all trial exhibits, whether stipulated to or contested, shall be pre-marked prior to the commencement of trial. The pre-marked exhibits shall also be provided to the Court and to the Court stenographer. All hospital records and other items in evidence over five (5) pages must be paginated before use at trial. Any trial related documents submitted to the Court, which will be marked as Court Exhibits, shall be e-filed and submitted in hard copy form to the courtroom clerk.

**JURY CHARGES:** Proposed jury charges shall be e-mailed to chambers. The proposed jury charges shall be tailored to the particular action. Proposed requests to charge shall specify those to which the parties consent and those to which any party objects. Proposed jury charges that need to be tailored to the particular action must include the PJI section number, title, and text of the charge. If there is no Pattern Jury Instruction available, or if counsel requests a deviation from the patterned instruction, counsel must provide the text of the proposed charge with citations to relevant legal authority and provide a highlighted copy of all referenced authority to each party.

**VERDICT SHEETS:** Counsel must also provide the Court with proposed verdict sheets by e-mailing them to Chambers in Word format.

**NON-JURY TRIALS:** Non-jury trials shall be governed by the same procedures and requirements set forth 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.

**POST-TRIAL and POST-HEARING SUBMISSIONS:** Counsel for each party shall prepare and submit a post-trial or post-hearing memorandum of proposed findings of fact and conclusions of law for all bench trials and hearings within 20 days of the conclusion of same. All legal arguments must be supported by relevant statutes, rules, and case precedent with proper citations.

### **Inquests**

**INQUESTS:** Any inquest related documents submitted to the Court, which will be marked as Court Exhibits, shall be e-filed and submitted in hard copy form to the courtroom clerk. The parties shall be required to provide a transcript of the inquest.

*Miscellaneous Matters*

**CONTEMPT:** *Adjournments are governed by the same procedures applicable to the adjournment of motions [see above].*

**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 office, 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:** All hearings from cases in the inventory of this part shall be scheduled by the Court. The filing of a note of issue is a condition precedent to the commencement of any hearing.

**JUDGMENTS/ORDERS:** All proposed Orders and/or Judgments shall be submitted with a copy of the Court minutes or decision ordering its submission.

**SUBPOENAS:** All subpoenas submitted to the Court for signature must conform with Article 23 of the CPLR (i.e., notice of motion or order to show cause).

**EX PARTE COMMUNICATION 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.

*Thank you for your anticipated courtesies and cooperation.*

**SUPREME COURT OF SUFFOLK COUNTY  
JUSTICE ALISON J. NAPOLITANO**

**COURTROOM RULES OF CONDUCT**

The following are the Rules of Conduct that shall be observed by all attorneys appearing before the Court.

- 1) Ensure that at all times cell phones are on silent or vibration mode.
- 2) Stand as Court is opened, recessed, and adjourned.
- 3) Stand when the jury enters or retires from the Courtroom.
- 4) Remain seated while a witness is being sworn.
- 5) Stand when addressing, or being addressed by, the Court.
- 6) Address all remarks and requests to the Court, not opposing counsel, Court Reporters, Clerks or Court Officers.
- 7) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between litigants or witnesses.
- 8) Refer to all persons, including witnesses, other counsel and the parties, by their surnames and not by their first or given names.
- 9) Only one attorney from each party shall examine, or cross-examine, each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross-examination.
- 10) Counsel should request permission before approaching the Bench or a witness, and any document counsel wishes to have the Court examine should be handed to the Courtroom Clerk or Court Officer.
- 11) In making objections, counsel should succinctly state only the legal grounds for the objection (e.g., “irrelevant”, “leading”, “bolstering”, “hearsay”) and should withhold all further comment or argument unless elaboration is requested by the Court.
- 12) In examining a witness, counsel should not repeat or echo the answer given by the witness.
- 13) All substantive sidebars shall be on the record and out of the earshot of the jury.
- 14) Counsel shall not make any extrajudicial statements or express opinions or personal knowledge directly or indirectly, nor shall counsel vouch for the credibility of a witness.