



**STATE OF NEW YORK**  
**UNIFIED COURT SYSTEM**  
**HON. JOSEPH C. PASTORESSA**  
*Supreme Court Justice*  
**CH AMBERS**  
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LEONARD J. LOZITO  
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## **IAS/ TRIAL PART 34- RULES & PROCEDURES**

Unless otherwise directed by the court, the following rules shall govern practice in Part 34:

### **Email Communications:**

All email correspondence to the court shall be sent to [SUFPASTORESSA@NYCOURTS.GOV](mailto:SUFPASTORESSA@NYCOURTS.GOV)

### **Adjournments:**

All conferences and motions can be adjourned on consent to any Wednesday by email to the court. For adjournment requests without consent, copy all parties on your email and await chambers response.

### **Motion Practice:**

**Return Dates/ Submissions:** All motions made in cases assigned to Judge Pastoressa must be calendared for submission on Wednesday's. Unless adjourned by the court, all motions appearing on the court's Wednesday motion calendar shall be marked submitted. Appearances are not required on any motion unless oral argument has been requested and granted. All requests for oral argument must be made in writing by letter to the court.

**Settled or Withdrawn Motions:** The court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice. The failure to do so will be sanctionable.

**Conferences:**

**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).

**Preliminary Conferences;**

An in-person appearance is not required for preliminary conferences. Counsel shall confer and submit a proposed preliminary conference stipulation and order. If a conference is needed, counsel shall notify the court in writing and a conference will be scheduled.

**Trials:**

**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, amendments thereto and all bills of particulars served. Counsel shall further provide the court with a list of proposed jury charges 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 advise the court of the number of witnesses to be called, and if any be experts, shall provide 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 courts review.

**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 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.

**Compromise Applications:** All applications for court approval of a proposed compromise of an infant or other disabled party's claim must comply with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67. A proposed distribution of net amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. Medical reports 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 shall be scheduled by the court.

**Hearings/ Inquests:** All hearings and or inquests emanating from cases in the inventory of IAS Part 34 shall be scheduled by the court.

**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.

Thank you for your courtesies and co-operation.