



STATE OF NEW YORK
UNIFIED COURT SYSTEM
HON. JAMES F. QUINN
Acting Supreme Court Justice
1 Court Street
Riverhead, New York 11901
631-852-2393 FAX 631-852-3226
Part 41 e-mail: Sufquinn@nycourts.gov

DANIELLE I. SCHWAGER
Principal Law Clerk

IRYNA ROONEY
Secretary

IAS/TRIAL PART 41 - RULES AND PROCEDURES
(Updated January 4, 2024)

Unless otherwise directed by the Court, the following rules shall govern practice in Part 41:

1. GENERAL RULES FOR PART 41:

The Court follows the Uniform Rules for the New York State Trial Courts, 22 NYCRR Part 202, the New York CPLR and all applicable Administrative Orders. **See AO/285/22 Rule 5. Information on Cases.**

All communications and correspondence to the Part shall be through the New York State Electronic Filing System (“NYSCEF”) only, unless otherwise stated therein.

Any decisions issued by the Appellate Division, Second Department arising from an appeal of an order issued by this Part shall be uploaded to NYSCEF upon counsels’ receipt of same.

Counsel are required to immediately advise the Court of any settlement by uploading a letter to NYSCEF indicating same and the fully executed stipulation of discontinuance so the Part’s Clerk can mark the case disposed. **See AO/284/22 Rule 2. Settlements and Discontinuances.**

Counsel are to immediately advise the Court in the event of the death of a party by uploading a letter to NYSCEF and **attaching a copy of the death certificate**, redacting any confidential information. The case will be marked stayed in the Court’s Uniform Case Management System (“UCMS”) by the Part’s Clerk pending the issuance of letters of administration and the substitution of the appointed person of the estate of the deceased party. **The case cannot be marked stayed unless and until the death certificate is uploaded to NYSCEF.**

Please ensure all e-mail addresses on file with NYSCEF are current to ensure all communications from the Part are received by all counsel and self-represented litigants.

***Ex parte* communications with the Court or any member of its staff, by any means, is strictly prohibited**, except to the limited extent permitted by these rules and by the rules set forth at 22 NYCRR §100.3. **All inquiries regarding adjournments of any matter shall be by NYSCEF only.** Please be advised that as soon as your communication to the Part is uploaded to NYSCEF, the Part receives an alert and your request is processed in due course.

See AO/285/22 Rule 5. Information on Cases.

2. MOTION PRACTICE: (Except Contempt – see Miscellaneous Matters)

PRE-MOTION CONFERENCE: Prior to submitting a motion on actions assigned to this Court, **the movant shall arrange and schedule a conference with the Court**, notify all parties to the action in advance and be prepared to articulate the issues and efforts towards resolution, notwithstanding that a preliminary or other conference may have been conducted by this Court or another Justice previously assigned to 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. In the event the dispute cannot be resolved, the Court may grant permission to make an appropriate motion addressed to the disputed issues(s).

No motion may be submitted in the absence of a pre-motion conference.

The following motions do NOT require a Pre-Motion Conference:

1. Any Matter where there is a PRO SE litigant
2. Motions to Withdraw as Counsel
3. Motions to Renew and/or Reargue
4. POST-NOTE OF ISSUE Motions for Summary Judgment

The pre-motion conference shall be requested by correspondence filed through NYSCEF, on notice to all appearing parties. The correspondence should include the full name of the case, index number, a contact person and their direct telephone number along with their e-mail address and a brief summary of the nature of the dispute.

The parties shall immediately file through NYSCEF written notice to the Court of the withdrawal or settlement of any motion, or portion thereof, or settlement of any case in which a motion is pending. Failure to promptly notify the Court in writing via NYSCEF may result in sanctions.

RETURN DATES/SUBMISSIONS: All motions in cases assigned to Justice Quinn shall be calendared for a **Tuesday** when the Part is in session. 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 otherwise ordered by the Court. All requests for oral argument shall be made in accordance with 22 NYCRR 202.8(d). All orders to show cause made returnable on any day other than a Tuesday shall be administratively adjourned to the Court's next available Tuesday submission date.

PAPERS: See AO/286/22 Rule 16. Motions in General. Timely filing of all papers in accordance with the CPLR is required, as the Court will not consider the merits of ANY PAPERS, including opposition, cross-moving or reply, which have not been filed 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.

Motion papers shall comply with the form prescribed in 22 NYCRR §202.8(c). **In accordance with 22 NYCRR 202.8-g and AO/141/22, all motions for summary judgement shall include either a statement of material facts or a counter statement of material facts.**

ADJOURNMENTS: Adjournments of motions are limited to three (3) and may not extend the original return date more than sixty (60) days pursuant to 22 NYCRR §202.8(e). All proposed adjourned dates must fall on a **Tuesday**. All applications for an adjournment of a motion may be made on consent of all appearing parties by written request filed through NYSCEF. All adjournment requests must be filed on NYSCEF. The writing must indicate the date on which the motion and all cross-motions riding therewith are returnable before the Court; the adjourn date requested [Tuesday only]; and the number of prior adjournments granted. If the consent of all parties cannot be obtained, a written application, filed through NYSCEF, for an adjournment 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 cause an adjournment of the motion-in-chief.

POST-TRIAL MOTIONS: Post Trial motions will be governed by the same procedures and requirements set forth above for Motion Practice. In addition hereto, whichever party files a post-trial motion shall be responsible for providing and uploading the trial transcript in its entirety through NYSCEF.

2. CONFERENCES:

SCHEDULING: Conferences shall be scheduled for any **Tuesday** when the Part is in session.

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).

ADJOURNMENTS: 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. *Applications for adjournments of conferences are governed by the same procedures applicable to adjournments of motions [see above].* Appearances are thus required unless the Court has granted an adjournment on the consent of counsel for all parties and received a written confirmation filed through NYSCEF, no later than 2:00pm of the day preceding the scheduled conference.

PRELIMINARY CONFERENCES: Preliminary conferences will be scheduled by the Court in accordance with 22 NYCRR §§ 202.12 and 202.19. All matters, including those raised by pending motions and those contemplated by 22 NYCRR §202.19, shall be undertaken at the Preliminary Conference.

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

COMPLIANCE CONFERENCES & PRE-TRIAL CONFERENCES: These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR §202.19.

3. TRIALS:

JURY TRIALS: A conference with the Court shall be held immediately prior to the commencement of all jury trials. At the conference, counsel shall supply the Court with a **TRIAL NOTEBOOK** containing the marked pleadings, amendments thereto, all bills of particulars, CPLR 3101(d) notices served and all prior Court decisions. Counsel shall further provide the Court with proposed jury charges and proposed jury verdict sheets.

Counsel shall comply with **AO/165a/23 Rule 28. Pre-Marking of Exhibits.** All trial exhibits must be pre-marked. A list of all pre-marked exhibits shall be provided to the Court. 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 identity and number of witnesses to be called, and if any be experts, shall further provide the information required by CPLR §3101(d)(1)(i). Counsel shall comply with **AO/213/23 Rule 29. Identification of Deposition Testimony.**

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 a charge conference and verdict sheet preparation must have the departure and causation testimony located in the trial transcript available for the Court's review.

Any evidence requiring the use of technology will need to be provided by counsel and the Court must be notified prior to the commencement of the trial. The Court is prohibited from installing outside thumb drives, discs, or other technology into State computers. Counsel must have any electronic evidence backed up onto a thumb drive for submission to the Appellate Division. Counsel is to provide copies of any documentary evidence to all counsel prior to the commencement of the 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, 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.

SUMMARY JURY TRIALS: Summary Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. The filing of a note of issue is a condition precedent to the commencement of any trial.

TRIAL TRANSCRIPTS: The Court will direct the ordering of trial transcripts on a daily basis. Counsel is to check with Court each day of trial if the Court requires the transcript to be ordered.

4. MISCELLANEOUS MATTERS:

CONTEMPT: All applications shall be calendared for a Tuesday. Any return dates made returnable on any day other than a Tuesday shall be administratively adjourned to the Court's next available Tuesday date. **Appearance by all parties is mandatory.** No adjournments will be granted unless a stipulation consenting to the adjournment, signed by all parties, is filed through NYSCEF and received no later than 2:00pm of the day prior to the return date.

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 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 for the purpose of a compromise hearing.

HEARINGS/INQUESTS: All hearings and/or inquests from cases in the inventory of IAS Part 41 shall be scheduled by the Court. The filing of a Note of Issue is a condition precedent to the commencement of any hearing or inquest.

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

EX PARTE COMMUNICATION WITH CHAMBERS: Except to the limited extent permitted by these rules and 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 cooperation.