

JUSTICE JOSEPH E. CAPELLA
Part 23 Court Rules¹

Supreme Court of the State of New York
12th Judicial District-Bronx County
851 Grand Concourse
Bronx, New York 10451

I.A.S. Part 23, Room: 402
Part Phone: (718) 618-1244
Court Attorney: Diomarys Escano, Esq.
Part Clerk: Paul Maritato
Secretary: Elsie Martinez

STARTING MONDAY, JANUARY 1, 2018, THIS PART HANDLES MEDICAL MALPRACTICE ACTIONS.

MONDAYS ARE RESERVED FOR ORDERS TO SHOW CAUSE, CONFERENCES AND INFANT COMPROMISES.

THERE SHALL BE A MONDAY MORNING 9:30 AM CALENDAR AND A MONDAY AFTERNOON 2:15 PM CALENDAR.

TUESDAY THROUGH FRIDAY ARE RESERVED FOR TRIALS.

Inquiries

- All inquiries should be made to the appropriate clerk's office when possible. Inquiries should only be directed to chambers when attempts to resolve a matter with the appropriate clerk prove fruitless.
- E-mail and/or Facsimile correspondence with chambers staff is not permitted unless prior authorization is obtained.
- “eTrack” is a case tracking service that enables parties to track active Civil Supreme Court cases, and to receive notice of scheduled appearances. All parties or their counsel are encouraged to register for the eTrack service for all cases in this part. To register please visit: <https://iapps.courts.state.ny.us/webcivil/etrackLogin>.

Motion Procedure Generally

- Regardless of whether the action is an E-File or not, hard copies of all motion papers (e.g., notice of motion, order to show cause, opposition, reply and supporting affidavits, affirmations and exhibits) shall be provided to the Court. (22 NYCRR § 202.5-b(d)(1)(iii).) As for exhibit(s) that are voluminous (e.g., EBT transcripts, hospital and nursing home records), only hard copies of those pages referenced in the motion papers need be provided to the Court. The entirety of the aforementioned voluminous exhibit(s) shall then be placed onto a data storage device (e.g., CD or USB drive) and attached to the motion papers.
- Discovery related notice of motion(s) should only be made after a Compliance Conference has been held.

¹ These are updated rules as of May 25, 2018.

- Tabs must be used when submitting exhibits with any motion, no exhibit(s) shall be double sided and all submissions shall be fully and securely bound.
- Counsel must notify the Court as soon as practicable if any submitted motion(s) has been resolved, withdrawn or is moot because the case settled.
- Pursuant to CPLR 3212(a), a motion for summary judgment shall be made no later than sixty (60) days after the filing of the Note of Issue, except with leave of court on good cause shown.
- Decisions can be obtained online at <http://bronxcountyclerkinfo.com>; decisions on e-filed cases can be obtained at <https://iapps.courts.state.ny.us/nyscef/Login>.
- No sur-replies shall be considered absent leave of court to interpose the same.

Motions Brought by Notice of Motion

- Motions are returnable five (5) days a week in the Motion Support Office, Room 217.
- Stipulations of adjournment, compliant with the Uniform Court Rule §202.8(e)(1), submitted in Room 217 on the return or adjourned date of a motion, will be honored and the motion will be adjourned and kept in the Motion Support Office.
- Applications seeking an adjournment shall only be made upon failure to procure an adjournment on consent of all parties. Upon such application, the motion and application will be forwarded to chambers for a ruling. Counsel will be advised of the ruling by telephone.
- Oral applications seeking an adjournment will not be considered.
- Unless requested by the Court, there shall be no oral argument and no personal appearance is required on any motion brought by notice of motion.

Motions Brought by Order to Show Cause

- Orders to Show Cause must comply with Uniform Rule 202.7(d) and be brought to the Orders Department in Room 216. Thereafter, they are forwarded to chambers for consideration.
- All Orders to Show Cause are returnable on Mondays, except for court holidays, in IAS Part 23 at 9:30 AM, unless otherwise indicated. Personal appearances are required.
- Proof of service must be filed with the Clerk of IAS Part 23 by 9:30 AM on the return date before the call of the calendar.
- Stipulations adjourning an Order to Show Cause shall be filed with the Clerk of IAS Part 23 either prior to or on the return date before the call of the calendar.

Infant Compromises and Other Ex Parte Applications

- Ex Parte applications are to be submitted to the Orders Department in Room 216.
- After review of Infant Compromise submissions, counsel will be notified by phone as to when to appear. Counsel shall also be notified of any deficiencies in the papers submitted and shall when appropriate, be given an opportunity to submit additional information to cure the deficiency.
- The infant and his guardian must be present on the date scheduled unless a prior waiver of their appearance has been obtained.
- The attorney's supporting affirmation shall set forth the policy limits of all available insurance.