

**HON. MARY ANN BRIGANTTI**

Part Rules: Part IA-25 (Revised 6/16/2021).

851 Grand Concourse, Bronx, NY 10451, Courtroom 407

Court Clerk: (718) 618-1252

**\*NOTICE\***

**EFFECTIVE JUNE 21, 2021, JUSTICE BRIGANTTI IS NO LONGER ASSIGNED TO THE MOTOR VEHICLE PART (IAS PART 15). ACCORDINGLY ANY REQUEST FOR CONFERENCES OR SO-ORDERED DISCOVERY STIPULATIONS MUST BE SENT TO THE NEWLY ASSIGNED JUSTICE FOR IAS PART 15.**

**IN ADDITION, ANY VIRTUAL MOTOR VEHICLE PART CONFERENCES PREVIOUSLY-SCHEDULED WITH JUSTICE BRIGANTTI'S PART WILL NOT GO FORWARD. PLEASE CONTACT THE NEWLY-ASSIGNED IAS PART 15 JUSTICE FOR A VIRTUAL CONFERENCE IF DESIRED.**

**I. GENERAL RULES**

**Appearance by Counsel with Knowledge and Authority.**

Counsel who appear before the court must be familiar with the case with regard to which they appear and be fully prepared and authorized to discuss and resolve the issues which are scheduled to be the subject of the appearance. It is important that Counsel be on time for all scheduled appearances.

In addition, all Counsel must be prepared for settlement discussions and have their client or adjuster "on call" by telephone.

Failure to comply with this rule may be treated as a default for purposes of Rule 202.27 and/or may be treated as a failure to appear for purposes of Rule 130.2.1. (See Section 202.1 Uniform Civil Rules for the Supreme Court and the County Court [subdivisions (f) and (g)].

**Settlements and Discontinuances**

If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the assigned judge or court part by submission of a copy of the stipulation or a letter directed to the clerk of the part along with notice to the chambers of this Part via telephone, or

email (skrompinger@nycourts.gov) This notification shall be made in addition to the filing of a stipulation with the county clerk.

Counsel, including self-represented litigants, are under a continuing obligation to notify the court as promptly as possible in the event that an action is settled, discontinued or otherwise disposed of or if a case or motion has become wholly or partially moot, or if a party has died or filed a petition in bankruptcy. Such notification shall be made to this Part in writing. (Section 202.28 Discontinuance of Civil Actions and Notice to the Court).

### **Electronic Submission of Papers**

Papers and correspondence filed by fax shall comply with the requirements of section 202.5 except that papers shall not be submitted to the court by fax without advance approval of this Part. Correspondence sent by fax should not be followed by hard copy unless requested.

In cases not pending in the court's Filing by Electronic Means System, the court may permit counsel to communicate with the court and each other by e-mail. Papers and correspondence filed by fax shall comply with the requirements of section 202.5 except that papers shall not be submitted to the court by fax without advance approval of the justice assigned. In the court's discretion, counsel may be requested to submit memoranda of law by e-mail or by other electronic means, such as by a computer flash drive, along with an original and courtesy copy. (Section 202.5-a of the Uniform Civil Rules for the Supreme Court and the County Court subsection [a] and [b]).

### **Form of Papers.**

The party filing the first paper in an action, upon payment of the proper fee, shall obtain from the county clerk an index number, which shall be affixed to the paper. The party causing the first paper to be filed shall communicate in writing the county clerk's index number forthwith to all other parties to the action. Thereafter such number shall appear on the outside cover and first page to the right of the caption of every paper tendered for filing in the action. Each such cover and first page also shall contain an indication of the county of venue and a brief description of the nature of the paper and, where the case has been assigned to an individual judge, shall contain the name of the assigned judge to the right of the caption. In addition to complying with the provisions of CPLR 2101, every paper filed in court shall have annexed thereto appropriate proof of service on all parties where required, and if typewritten, shall have at least double space between each line, except for quotations and the names and addresses of attorneys appearing in the action, and shall have at least one-inch margins. In addition, every paper filed in court, other than an exhibit or printed form, shall contain writing on one side only, except that papers that are fastened on the side may contain writing on both sides, and shall contain print no smaller than 12-point, or 8 ½ x 11 inch paper, bearing margins no smaller than one inch. The print size of footnotes shall be no smaller than 10 point. Papers that are stapled or bound securely shall not be rejected for filing simply because they are not bound with a backer of any kind.

Each electronically-submitted memorandum of law, affidavit and affirmation, exceeding 4500 words, shall include bookmarks providing a listing of the document's contents and facilitating easy navigation by the reader within the document (see Subdivision (a) of section 202.5 of the Uniform Civil Rules for the Supreme Court and the County Court).

### Information on Cases

All inquiries as to case or calendar status should, in the first instance, be made to the appropriate clerk's office: IAS Motion Support Office, Room 217 (ext. 1310). The Part Clerk can also provide information about scheduling of cases (conferences and argument of motions) in the Part (ext. 1252). Unless otherwise stated in these Rules, **the only inquiries that should be made directly to Chambers should be those involving immediate and substantive exercise of judicial discretion.**

### Ex Parte Communications

Under no circumstances will ex-parte communications be accepted.

### Availability of Decisions and Orders

All decisions and orders (including discovery orders and stipulations) are scanned and available on the Internet (NYSCEF or Bronx County Clerk). Do not call to ask whether a decision has been issued.

### Remote appearances via Microsoft Teams

Microsoft Teams is an audio video communication and cooperative platform that the Courts use for their conferences. Microsoft Teams has many features conducive to having an informative session, for example break out rooms for private settlement discussions and a shared screen feature to present and enlarge pdfs, photos, and other documents for all parties to view. The download is free. The training is available in the virtual court resource center at the NY court portal website. Take advantage of this resource. For more information please visit [nycourts.gov/appear](http://nycourts.gov/appear).

In the event that a conference is scheduled by the Court, please be aware of the following requirements. First, all parties are required to appear for the conference unless specifically excused by the Court (Section 202.23(b) Staggered Court Appearances. In order for the court to be able to address any and all matters of concern to the court and in order for the court to avoid the appearance of holding ex parte communications with one or more parties in the case, even those parties who believe that they are not directly involved in the matter before the court must appear at the appointed date and time assigned by the court unless specifically excused by the court. Second, each attorney who receives notification of an appearance on a specific date and time is responsible for notifying all other parties by e-mail that the matter is scheduled to be heard on that assigned date and time (Section 202.23[c]). Finally, requests for adjournments shall be transmitted in writing to the court and to all parties no later than 48 hours before the conference, and shall set forth whether the other parties consent to the adjournment (Section 202.23[d]).

Proper attire for all participants is required for conferences. Prior to the conference, please make sure that you are in a quiet environment, and that your camera and microphones are

in working order. It is best if the Judge can see all parties and for the parties to see one another. If you are not speaking, please mute yourself. Finally, please make sure that your equipment does not produce an echo.

## II. MOTIONS

### Generally

All motions will be decided “on submission” unless specifically scheduled for oral argument/conference before the Court. Please contact the Court immediately if there has been any developments in a case that would affect the resolution of a pending motion (i.e., settlement, stipulation to adjourn, withdrawal, etc.). Please make sure to copy all other parties in the case on any e-mail sent to the Court.

Chambers does not require working copies of electronically-filed motion papers (see Administrative Order AO/121/20).

**Form of Motion Papers.** (Section 202.8-a. [a]). The movant shall specify in the notice of motion, order to show cause, and in a concluding section of a memorandum of law, the exact relief sought. Regardless of whether the papers are filed electronically or in hard copy or as working copies, counsel must submit as part of the motion papers copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion (especially on motions pursuant to CPLR 3211 and 3212). Counsel should use tabs on hard or working copies when submitting papers containing exhibits. Copies must be legible. If a document to be annexed to an affidavit or affirmation is voluminous and only discrete portions are relevant to the motion, counsel shall attach excerpts and submit the full exhibit separately. Documents in a foreign language shall be translated as required by CPLR 2101(b). Whenever reliance is placed upon a decision or other authority not readily available to the court, a copy of the case or of pertinent portions of the authority shall be submitted with the motion papers.

**Proposed orders.** (Section 202.8-a. [b]). When appropriate, proposed orders should be submitted with motions, e.g., motions to be relieved, pro hac vice admissions, open commissions, etc. No proposed order should be submitted with motion papers on a dispositive motion.

### Motion Adjournments

**Adjournment of Motions.** (Section 202.8-a. [c]). Unless the court orders otherwise, no motion may be adjourned on consent more than three times or for accumulative total of more than 60 days.

The parties shall use their best efforts to obtain consent from their adversaries prior to requesting an adjournment of any sort from the Court. All parties requesting an adjournment must insure that such request has been granted prior to the scheduled date in order to avoid a default determination being entered. All requests for adjournments prior to the scheduled date must be made in writing, eFiled, and e-mailed to Chambers at [skrompinger@nycourts.gov](mailto:skrompinger@nycourts.gov) and [jastone@nycourts.gov](mailto:jastone@nycourts.gov) for approval. Oral applications will not be entertained – no exceptions. **It**

is the burden of the parties to inquire as to whether the stipulation was approved by the Court.

**Any Stipulations requesting a more than sixty (60) day adjournment after the original return date on a motion must include an explanation for the request. One-sided requests for adjournments must always include an explanation for the request.** If the requesting party does not provide an explanation under these circumstances, the adjournment request will be denied.

#### Sur-Reply and Post-Submission Papers

(See Section 202.8-c.) Absent express permission in advance, sur-reply papers, including correspondence, addressing the merits of a motion are not permitted, except that counsel may inform the court by letter of the citation of any post-submission court decision that is relevant to the pending issues, but there shall be no additional argument. Materials submitted in violation hereof will not be read or considered. Opposing counsel who receives a copy of materials submitted in violation of this Rule shall not respond in kind.

#### Summary Judgment Motions

**1. 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.**

**2. Motions for Summary Judgment; Statements of Material Facts. (See Section 202.8-g)**

(a) Upon any motion for summary judgment, other than a motion made pursuant to CPLR 3213, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In such a case, the papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party and, if necessary, additional paragraphs containing a separate short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Each numbered paragraph in the statement of material facts required to be served by the moving party will be deemed to be admitted unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.

(d) Each statement of material fact by the movant or opponent pursuant to subdivision (a) or (b), including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion.

#### Oral Argument

(See Section 202.8-f [b]) Any party may request oral argument of a motion by letter accompanying the motion papers. Notice of the date selected by the court shall be given, if

practicable, at least 14 days before the scheduled oral argument. At that time, counsel shall be prepared to argue the motion, discuss resolution of the issue(s) presented and/or schedule a trial or hearing. Oral argument will be held via Microsoft Teams.

### Orders to Show Cause

(see Section 202.8-d.) Motions shall be brought on by order to show cause only when there is genuine urgency (e.g., applications for provisional relief), a stay is required or a statute mandates so proceeding. See Section 202.8-e. Absent advance permission of the court, reply papers shall not be submitted on orders to show cause.

Orders to Show Cause must comply with Uniform Rule 202.7(d).

All Orders to Show Cause are returnable on Fridays, except for Court holidays.

Proof of service must be filed with the Clerk, and e-mailed to the Court ([skrompinger@nycourts.gov](mailto:skrompinger@nycourts.gov) and [jastone@nycourts.gov](mailto:jastone@nycourts.gov)) by 9:30 AM on the return date. Non-compliance shall result in denial of the Order to Show Cause.

Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary (or with proof the adversary has been notified, but declined to appear) when the application is presented for signature. The parties shall contact chambers to arrange for their appearance via Microsoft Teams.

Upon receipt of a signed order to show cause, the parties shall e-mail the Court ([skrompinger@nycourts.gov](mailto:skrompinger@nycourts.gov) and [jastone@nycourts.gov](mailto:jastone@nycourts.gov)) to confirm their appearance on the return date via Microsoft Teams.

