

Supreme Court, Bronx County - Civil Term
I.A.S. PART 8 RULES
Presiding Justice: Donald A. Miles

Courtroom: 706
Telephone: (718) 618-1242

Chambers: 807
Telephone: (718)618-1490

1. APPEARANCES

- a) Counsel and *pro se* litigants are directed to appear at 10:00 a.m. for all calendar calls, and at the scheduled time for all trials, hearings and conferences. Failure to appear at the call of any calendar, may result in inquest or dismissal pursuant to 22 NYCRR 202.27
- b) Minor children are not permitted in the courtroom, except by permission of the Judge.

2. MOTION PROCEDURE

- a) All papers must comply with CPLR §2101, CPLR § 2102, and CPLR § 2214, as well as the applicable providing of the court rules [22 NYCRR Part 202].

THERE ARE NO SUBMITTED MOTIONS IN THIS PART AND ALL MOTIONS, WITHOUT EXCEPTION, MUST BE ORALLY ARGUED.

- b) There is one calendar call that is at 10:00 a.m. Failure to appear at the calendar call, may result in a default against the respective party.

3. MOTIONS BROUGHT BY ORDER TO SHOW CAUSE

- a) Orders to Show Cause must comply with Uniform Rule 202.7(d) and be brought to the Motion Support Office. Thereafter, they are forwarded, by Motion Support, to Chambers for consideration.
- b) All Orders to Show Cause are returnable on Mondays, except for court holidays, in IAS Part 8 at 10:00 A.M. unless otherwise indicated. Personal appearance is required.
- c) Proof of service must be filed with the Clerk of IAS Part 8 by 10:00 A.M. on the return date. Non-compliance will result in denial of the Order to Show Cause.

- d) Stipulations adjourning an Order to Show Cause shall be filed or faxed with the Clerk of IAS Part 8 prior to the call of the calendar. Parties are responsible for confirming the adjournment.

4. MOTIONS BROUGHT BY NOTICE OF MOTION

- a) Motions are returnable (5) days a week in the Motion Support Office. Be advised all motions will then be automatically adjourned for oral argument to the first next available Monday
- b) All opposition and reply papers must be submitted to the Motion Support Office on the return date of the motion, (Oral Argument Date or Notice for motion date by the Court). If not, submitted prior to the oral argument date, then copies of the opposition and reply papers shall be brought to the court on oral argument date.
- c) If opposition and reply papers have been duly filed in the Clerk's office, courtesy copies need not be provided to the Court.
- d) No sur-replies shall be considered, absent leave of court to interpose the same.
- e) Stipulations of adjournment of oral argument, compliant with the Uniform Court Rule §202.8(e) (1), submitted to the IAS Part 8 Clerk, prior to the return or adjourned date of a motion, will be adjourned to the next available date to the Court.
- f) No stipulation to adjourn the return date prior to the first oral argument date will be accepted.
- g) No stipulation to adjourn the matter back to the submission clerk will be accepted.
- h) Oral applications seeking an adjournment shall be made upon failure to procure prior adjournment on written consent and signed by all parties.
- i) Moving and responding papers are to be filed with the Clerk in Motion Support, except that any case that has been marked final in the part itself, the parties must seek approval to file an additional adjournment beyond a final marking.
- j) Failure to appear at a calendar call will result in denial of any motion made by the non-appearing party and the granting of any motion on default when the opposing party fails to appear.
- k) All parties seeking or filling a request for 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 adjournment must be made in writing and signed by all parties. Oral applications will only be entertained on the scheduled date with all parties present. No exceptions.

- l) All parties appearing on a motion should have familiarity with the case and the moving papers sufficient to engage in substantive oral argument on the issues raised in the motion papers.

ORDERS TO SHOW CAUSE TO WITHDRAW AS COUNSEL must contain the following decretal clause:

IF YOUR ATTORNEY IS PERMITTED AND/OR OBLIGATED TO WITHDRAW FROM YOUR CASE, YOU WILL BE REQUIRED TO FIND A NEW ATTORNEY OR REPRESENT YOURSELF IN CONTINUING TO PROSECUTE YOUR CASE/DEFEND YOURSELF IN THIS ACTION.

5. ALL PAPERS MUST COMPLY WITH CPLR § 2101(a).
6. TABS MUST BE USED WHEN SUBMITTED EXHIBITS WITH ANY MOTION.
7. All cited material shall be fully viewable without having to remove staples or binding.
8. All submissions shall be fully and securely bound.
9. No exhibits shall be double-sided.
10. Courtesy copies shall not be submitted unless requested.
11. To avoid unnecessary decisions that may not be vacated, the parties shall advise Chambers in writing, of pending motions or applications, where the matter has been resolved, rendered moot and the motion or application should be withdrawn. Also, after oral argument and a motion has been submitted, while the motion is pending, the parties shall advise Chambers, in writing if the action has been stayed.
12. All motion papers and all paragraphs are to be numbered. If an annexed document is voluminous and only discrete portions are relevant, Counsel shall highlight the relevant sections of the document.
13. When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document. Proposed orders or judgments incorporated within motion papers will be considered exhibits, treated as such, and may be disregarded.
14. **DISCOVERY MOTIONS**
 - a) This Part only entertains substantive non-discovery motions. All motions seeking discovery must be directed to the Compliance Conference Part, as no issues of discovery will be entertained by this IAS Part 8.
 - b) No motion for substantive relief shall be joined with any application for discovery. Discovery

related motions are heard by the Judge presiding in the DCM Part, IAS Part 11. In the event that a party makes a discovery cross-motion in response to a substantive motion, the Court shall refer the discovery related application to the DMC Part, IAS Part 11 and upon resolution of the discovery motion, shall resolve the substantive motion.

15. A motion for summary judgment, pursuant to CPLR § 3212(a), shall be made no later than one hundred and twenty (120) days after filing of the Note of Issue, except with leave of court on good cause shown.

16. **INQUIRIES AND COMMUNICATIONS**

- a) All inquires 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.
- b) The only inquiries that should be made directly to Chambers or the Part should be those involving the immediate and substantive exercise of judicial discretion.
- c) Facsimiles and or Email communications with Chambers, are not permitted, unless prior authorization is obtained.
- d) Attorneys shall not call Chambers or the Court Room during the daily lunch hour which is from 1:00PM to 2:00PM.

17. **TRIALS**

- a) Be prepared and well organized. Be punctual and professionally attired. Be civil to the Court and to each other.
- b) Plaintiff must provide a copy of the pleadings, bill of particular, demands for discovery and corresponding responses, copies of their clients EBT transcripts and copies of all their expert 3101(d) exchanges.
- c) All parties must raise all pre-trial issues prior to jury selection or openings, or whichever opportunity is first available to the parties, in order that such issues be preserved for appellate purposes.
- d) Any pre-trial issues not raised before openings will be deemed WAIVED.
- e) All parties must reveal and identify all potential witnesses that may be called during the trial; failure to reveal or identify will be deemed a voluntary waiver by the party.
- f) When reasonable, the court will work with attorneys to resolve scheduling conflicts, however, all scheduling concerns and issues should be promptly discussed during the first conference.

- g) Any special requests, such as interpreters, blackboards, media equipment, shall be made in advance of commencement of the trial or during the first conference. It is expected that the attorneys will select a jury as expeditiously as possible.
- h) Parties shall furnish the Court with copies of any statutes that the parties claim are relevant to a particular case.
- i) Parties must provide the Court with copies of all transcripts to be used during the trial prior to their use at trial. Portions of any transcript to be read into evidence on a party's case in chief must be disclosed in advanced and the Court and all parties must be provided with all page and line numbers for the portions to be read.
- j) At the first scheduled conference in the Part, parties shall alert the Court to all anticipated issues of law and fact and provide the Court with the relevant law applicable to their case.
- k) Stipulate to undisputed facts and the admissibility of clearly admissible documents.
- l) Apprise the Court of any anticipated motions *in limine*.
- m) Provide the Court with a list of anticipated witnesses.
- n) Provide the Court with any subpoenas it wishes the Court to so-order, provided the same are relevant to the trial at hand.
- o) Motions *in limine* should be supported by case law and copies of the same must be provided to the Court prior to the making of such motion.
- p) All trial exhibits must be pre-marked for identification, as well as any records stipulated in evidence.
- q) Speaking objections are prohibited. An objection shall be made by standing saying "objection" and thereafter succinctly stating the basis for the objection. If the objection requires elaboration, parties should request a sidebar.
- r) While opportunity to preserve and make a record may not always be allowed when requested, all attorneys shall ultimately be granted ample opportunity to make a record.
- s) Due to the Court's motion calendar, there may be no trials on Monday mornings.

18. INFANT COMPROMISE AND OTHER EX PARTE APPLICATIONS

- a) *Ex Parte* applications are to be submitted to the Motion Support Office. Thereafter, they are forwarded by Motion Support to Chambers for consideration.
- b) After review of Infant Compromise submissions, counsel will be notified 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.

- c) Hearings are required and are held prior to the approval of any Infant Compromise Order.
- d) The infant and his named guardian must be present on the date scheduled, unless a prior waiver of their appearance has been obtained. The named guardian must have proper identification to present to the court on the scheduled court hearing date.
- e) All proposed infant compromise orders shall contain the following language:

“Said deposited funds shall be for the sole benefit and use of the infant plaintiff herein.”

“It is further Ordered that the Guardian shall, within thirty days of the deposit of the funds due the infant herein in the designated bank(s), submit to the Clerk’s Office, Motion Support, Room 217, a copy of the Certificate of Deposit issued by said bank.”

- f) It is at the Court’s discretion in which bank the Infant Compromise funds are deposited. However, a Savings Bank is preferable, since fees will not be charged against the deposit.
- g) The attorney’s supporting affirmation shall set forth the policy limits of all available Insurance.
- h) All infant’s Compromise submissions shall comply with C.P.L.R §1207, §1208 and Uniform Rules § 202.67.

16 **DEPOSITION RULINGS**

Requests for rulings are to be made to the Ex-parte Justice, not the IAS assigned Justice.

17 **E-FILINGS**

Attorneys who submit or respond to a motion by electronic filing shall comply with the Bronx Supreme Court Filing Rules for E-filed motions set forth at:
<http://www.nycourts.gov/courts/12jd/BRONX/civil/filingrules-efile.shtml>.