

I.A.S. Part 4
Hon. Andrew Cohen
Effective January 2024

Justice Andrew Cohen
Supreme Court of the State of New York
12th Judicial District – Bronx County
851 Grand Concourse
Bronx, New York 10451

I.A.S. Part 4, Room 413

COMMUNICATIONS

Part 4 Chambers staff:

Jyll D. Townes, Principal Law Clerk via email: jdtownes@nycourts.gov

Nikita Patel, Assistant Law Clerk via email: npatel@nycourts.gov

Cheryl Orr, Court Clerk via email: corr@nycourts.gov

Chambers Telephone Number: (718) 618-3016

Courtroom Telephone Number: (718) 618-1212

ALL INQUIRIES SHOULD BE MADE VIA E-MAIL TO NPATEL@NYCOURTS.GOV AND HAVE
CC'D JDTOWNES@NYCOURTS.GOV

Chambers may use email to communicate with the parties regarding scheduling, inquiries, or sending courtesy copies of orders under certain circumstances. Please do not contact Chambers for status of a pending decision post-conference or post-oral argument. No information in such a circumstance will be given. No ex parte communications will be made, please include all parties in your emails to the Court.

Any stipulations of adjournment or discontinuance uploaded to NYSCEF should also be courtesy emailed to Chambers staff and bxsupciv-ia4@nycourts.gov.

MOTIONS

Beginning September 2023, in-person appearances will be the default method of appearance.

Generally

The Part's Motion Calendar, either virtually or in-person, will be held on the Friday of the week.

All motions filed as of February 1, 2021 must comport with the new Court rules particularly:

- a) must adhere to the page limits
- b) must provide a summary

Attorneys must include email addresses on all motion papers as well as telephone numbers where they can be reached.

Attorneys must contact the Court immediately if there have 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 email sent to the Court.

Applicable to Notices of Motion and Order to Show Cause

All papers must comply with CPLR R2101, R2103, and R2214 as well as the applicable provisions of the Court Rules [22 NYCRR Part 202].

When submitting proposed orders or judgments, counsel are advised to keep them separate and apart from motion papers. Proposed orders or judgments incorporated within motion papers will be considered exhibits and treated as such.

Failure to appear at the call of any calendar conference may result in an inquest or dismissal [22 NYCRR §202.27].

As soon as practicable, counsel must advise the Court in writing of all motions that have been resolved and/or withdrawn. This can be done via email to npatel@nycourts.gov and CC: jdtownes@nycourts.gov and corr@nycourts.gov.

Motions brought by Notice of Motion

Motions are returnable five days a week in the Motion Support Office, Room 217. All opposition and reply papers must be submitted at the Motion Support Office on the return date of the motion.

All non-disclosure motions will be deemed submitted on the return date and forwarded to Chambers. Stipulations of adjournment which comply with Uniform Rule 202.89(e)(1), and are 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. If a non-stipulated application for adjournment is submitted, the motion and application will be forwarded to Chambers for a ruling. Counsel will be advised of the ruling in writing. Oral applications are not considered.

If oral argument is requested and granted, or directed by the Court, the motion will be adjourned for either a virtual or in-person appearance in IAS Part 4. Counsel will be advised of the adjourned date via email. If a virtual appearance is done, a Microsoft Teams invite link will be emailed to the parties by Chambers.

Summary Judgment Motions

Pursuant to CPLR R3212(a), a motion for summary judgment shall be made no later than one hundred twenty (120) days after the filing of the Note of Issue, except with leave of court on good cause shown.

Motions for summary judgment must adhere to Court Rule 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.

The parties are free to request oral argument on any motion; however, oral argument is always at the discretion of the Court (see 22 NYCRR § 202.8[d]). If the court requires an oral argument, all parties will be notified in writing and provided a Microsoft Teams link, if necessary.

All papers shall be in Times New Roman with a 12-point font size. No papers shall be double-sided, and all pages shall be numbered.

Failure to comply with these rules may result in lack of consideration of papers or denial of motion.

Discovery Motions

The calendar for discovery motions will be held in-person on Fridays at 9:30AM in Room 413.

Parties may not stipulate to adjourning any in-person appearances, and failure to appear will result in default (22 NYCRR § 202.27).

Parties may only stipulate to the outstanding discovery motions, resolving the motion altogether, and have it submitted via E-file and email to npatel@nycourts.gov, jdtownes@nycourts.gov, and corr@nycourts.gov, prior to the appearance date, which only then will result in removing the appearance from the calendar.

Upon the filing of a preliminary conference request, a Case Scheduling Order (“CSO”) will be automatically generated within 45 days and uploaded to NYSCEF in lieu of holding a conference. All parties having associated an email address with the action on NYSCEF will be deemed with the CSO upon its filing. Parties shall strictly comply with discovery obligations by the dates set forth in the CSO (22 NYCRR §202.20-e). Extensions of deadlines set forth by CSO must be requested at a compliance conference and will only be granted upon a showing of good cause. If 45 days have elapsed, issue is joined, and a CSO has not been uploaded, please contact County Clerk’s office.

Six months after the issuance of the CSO, any party may request an initial compliance conference by writing to npatel@nycourts.gov, jdtownes@nycourts.gov CC’ing corr@nycourts.gov and all other interested parties.

Repeated failure to comply with the Note of Issue deadline may be treated as a default pursuant to 22 NYCRR §202.27 and result in dismissal.

Counsel for all parties shall consult with one another **prior** to any discovery appearance, compliance conference, or preliminary conference.

Orders to Show Cause

All OSCs must comply with Uniform Rule 202.7(d) and be E-filed on NYSCEF.

All OSCs must include email address and telephone numbers for all parties.

All OSCs are returnable on Fridays, except for court holidays, in IAS Part 4 at 9:30 a.m., unless otherwise indicated.

Proof of service must be E-filed and a copy should be emailed to chambers. Non-compliance will result in denial of the OSC.

Stipulations adjourning an OSC should be emailed to chambers and E-Filed prior to the return date.

Upon receipt of a signed OSC that requires appearance virtually, the movant shall forward the Microsoft Teams Invite to all parties entitled to notice.

Any application for a TRO must comply with Uniform Rule 202.7(f).

Adjournments

To request an adjournment a stipulation signed by all parties must be E-filed on NYSCEF and a courtesy copy must be sent to Chambers via email to npatel@nycourts.gov, jdtownes@nycourts.gov and have CC'd corr@nycourts.gov

If the parties are unable to stipulate to an adjournment, parties shall contact Chambers as soon as possible.

HEARINGS AND TRIALS

Generally

Any applications for initial adjournments must be made to the Special Trial Part (STP) Judge and any renewal of these applications will be referred back to STP.

Any pre-trial issues (except those not reasonably anticipated in advance but timely raised), including motions *in limine*, not raised at the first appearance in the Part for trial/conferences may be deemed waived. Parties must make the Court aware of any motions *in limine* upon reporting to the Part.

To streamline the hearing/trial and avoid delay, the parties must provide the following to the Court, to each other, and E-Filed on NYSCEF **within 24 hours of case assignment to the Part:**

1. Business cards/contact information including email and phone numbers
2. All marked pleadings (complaint, answer, bill of particulars, etc.)
3. Motions *in limine*
4. Witness lists with availability (exchanged before Jury Selection)
5. List of proposed exhibits (exchanged before Opening Statements)
6. Any relevant orders pertaining to the case
7. Requests to charge
8. Proposed verdict sheets
9. Any special requests, including the use of media equipment, technology, interpreter, or other trial tools.
10. If a litigant requests a Pattern Jury Instruction (PJI) be modified, the complete PJI, incorporating the modified charges, must be submitted.

At trial, counsel and litigants are expected to report to the Courtroom by 9:30 a.m., unless told otherwise.

Counsel shall not speak to objections in the presence of the jury.

Redirect shall be limited at the topic of cross-examination, therefore recross of a witness or party will not be permitted.

All counsel must be prepared for settlement discussions and have authority on behalf of their client or adjuster.¹

If the parties settle or resolve the matter prior to the Court date, please notify the Court immediately by emailing npatel@nycourts.gov and jdtownes@nycourts.gov CC'ing corr@nycourts.gov

Jury Selection

Prior to jury selection, parties shall inform jurors about the estimated duration for trial.

The “[Struck method](#)” will be the default jury selection method unless parties stipulate to a different jury selection method.

Parties should stipulate to the number of jurors and designation of alternatives prior to the commencement of jury selection.

Jury selection shall be completed within two court sessions (i.e., a morning session and an afternoon session).

Exhibits

The parties must discuss all proposed evidence/exhibits and attempt to stipulate the exhibits, including marking, into evidence prior to the hearing/trial.

All documents must be clear, legible, and in a format that is readily accessible (pdf or jpeg). The top page of the exhibits must also be clearly labeled and paginated (i.e., Defendants Exhibit “A” for ID, Plaintiff’s Exhibit #1 for ID).

If a screen or computer is required to display exhibits/evidence during trial, it must be set up prior to the start of the hearing. Please conduct a test prior to the start of trial.

INFANT COMPROMISE ORDERS AND OTHER NON-GUARDIANSHIP/FIDUCIARY EX PARTE APPLICATIONS

Ex Parte applications

Non-E-File Cases: All Ex Parte applications are to be submitted to the County Clerk.

E-File Cases: All Ex Parte applications must be uploaded to NYSCEF.

¹ Counsel must apprise the court immediately on any status change.

Infant Compromise Orders (ICOs)

To avoid delay and ensure that all required documentation is submitted, counsel or unrepresented litigants shall utilize an Infant Compromise Order checklist, uploaded to the [New York courts website](#), before submission of a proposed ICO. Proposed ICOs without the required documentation will delay processing.

All proposed infant compromise (E-filed or non-E-File) orders shall contain the following language if no Trustee was appointed:

It is further Ordered that the Guardian shall, within thirty (30) days of the deposit of the funds due the infant herein in the above designated bank(s), submit to the Clerk's Office, Room 217, a copy of the Certificate of Deposit issued by said bank.

All proposed infant compromise (E-filed or non-E-File) orders shall contain the following language if a Trustee was appointed:

It is further Ordered that the Trustee shall, within thirty (30) days of the deposit of the funds due the infant herein in the above designated bank(s), submit to the Clerk's Office, Room 217, a copy of the Certificate of Deposit issued by said bank.

Additional ICO language should include:

Mother Natural Guardian (M/N/G) and/or Father Natural Guardian (F/N/G), and Trustee's name, address, direct numbers, and email.

The attorney's supporting affirmation shall set forth the policy limits of all available insurance and shall attach any (1) annuity plans proposed to the parent/guardian, (2) itemized sheet for disbursements, and (3) comparables to establish reasonableness for settlement amount(s).

After review of Infant Compromise submissions, Counsel will be notified of the scheduled virtual or in-person appearance date by email.

A request for an interpreter or court reporter for an ICO proceeding should be made via email to Chambers npatel@nycourts.gov and jdtownes@nycourts.gov at least seven (7) days before the proceeding.

Plaintiff's counsel must make all arrangements to have the infant and parent/natural guardian appear on the virtual or in-person hearing date.

ARTICLE 81 GUARDIANSHIP PROCEEDINGS

Generally

Guardianship proceedings are initiated by an Order to Show Cause (OSC). Any adjournments will be granted only under exigent circumstances and with the prior approval of this Court.

All filings, including the proof of service, the referee report (if applicable), request for adjournments or request for appearance must be faxed to the Guardianship Department at (212) 618-5248, or by email to bxfiduciary@nycourts.gov (subject line must include the Index No. and the Incapacitated Person's name), or by mail to the Guardianship Department (Room 216) on or before the Friday before the return date.

- Attorneys and/or Guardians must follow up with the Guardianship Department by calling 718-618-1330 after submitting annual filings or proposed orders via NYSCEF (e-file) or paper filing.

All motions by OSC are returnable on Mondays.

All filings must include all interested parties email addresses and direct phone number.

An affidavit of service must be supplied.

All requests for compensation of services shall be accompanied by affidavit of services.

Any requests for a virtual conference shall be sent to npatel@nycourts.gov and ecorrig1@nycourts.gov.

Conferences shall be scheduled either Tuesday or Thursday of the week.

All ex parte applications must be made on notice to all parties.

All decisions will require an order to be settled unless otherwise indicated.

- When filing a Final Accounting a Notice of Settlement must be provided.

A timely request for an interpreter or court reporter for the proceeding should be made via email to Chambers npatel@nycourts.gov and ecorrig1@nycourts.gov as soon as possible.

ADA AND OCA

This Court is committed to ensuring that people with disabilities have equal and fair access to the courts. If an accommodation is needed, please follow the instructions per the [New York Courts website](#).

For more information regarding the court system, please visit the website for the [Office of Court Administration \(OCA\)](#).

REMOTE APPEARANCE VIA MICROSOFT TEAMS

In-person appearances is now the **default** method of appearance. However, if an appearance or conference is scheduled by the Court using Microsoft Teams, a Microsoft Teams Invite will be sent to the movant and they are responsible for forwarding the invitation to all parties entitled to notice.

During the appearance on Microsoft Teams, proper attire for all participants is required as is a quiet environment for the duration of the appearance. It is best if the Judge can view all parties and for the parties to see one another, hence a working camera and microphone would be preferred. However, parties may call in (audio-only) if that is the only way to join the conference.

These rules will remain in effect until further notice.