

BRONX SUPREME COURT
CIVIL TERM
I.A.S. PART 21 RULES

**Honorable Adrian Armstrong, Court of Claims, Acting Justice, Supreme Court
Courtroom 701, Telephone: (718) 618-1196
Part Clerk: Juanita Green
Email: jgreen1@nycourts.gov**

NOTICE

Effective immediately, Judge Armstrong will not entertain or sign orders on foreclosure matters. Foreclosure matters will be conferenced for resolution and/or settlement pending the expiration of the foreclosure moratorium.

Also, effective immediately, tax lien actions will now be conferenced in the Foreclosure Settlement Conference Part (“FSC”). Accordingly, previously scheduled conferences on tax lien cases will not go forward. Please contact the FSC part to schedule conferences on any newly re-assigned tax lien cases that were previously assigned to Judge Armstrong.

IMPORTANT

Litigants must have the knowledge and authority to make decisions on behalf of themselves or their clients for the matter they are appearing on. Counsel who appear before the court, whether in person or virtually, must be on time, familiar with the case and fully prepared for settlement discussions by having their client or adjuster present or "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 (f) and (g), Uniform Civil Rules for the Supreme Court and the County Court.

Litigants are to comply with the revisions and new rules derived from the Rules of the Commercial Division that were incorporated into the Uniform Rules for the Supreme and County Courts, effective February 1, 2021, pursuant to Administrative Order of the Chief Administrative Judge of the Courts 270/20, dated December 29, 2020. In summary, the rules affect preparation, timeliness, communication with the Court and, required length and proper form of documents, discovery, orders to show cause, new requirement of a statement of material facts in motions for summary judgment and oral argument. The new amendments to these rules may be found at: <https://www.nycourts.gov/LegacyPDFS/rules/comments/orders/AO%20Commercial%20Division%20rules%20in%20civil%20courts.pdf>

It is imperative that you are knowledgeable of these rules and the substantial amendments that were put into effect as of February 1, 2021 if you have not already done so.

The following are specific list of rules for communications and motions before I.A.S. Part 21:

Communication with the Court and other parties:

1. Ex-parte communications are not acceptable and such communications will be rejected. All communications and calls shall be directed to the Part Clerk above. If you have an inquiry about any matter other than scheduling times, please inform the Part Clerk whether the inquiry requires an immediate and substantive exercise of judicial discretion and that all parties are present. All parties must be copied on all emails. All parties are to ensure that their email addresses are accurate and up to date.
2. Uploads to NYSCEF **DO NOT** inform the Court. Please follow the instructions below (in addition to any filing with the county clerk and/or uploading correspondence to NYSCEF) to **immediately** inform the court of requests for adjournments, scheduled mediation, motions or other applications that are resolved, rendered moot, withdrawn or in which the parties have stipulated to some aspect of the case.

Adjournments

Requests for adjournments of appearances are to be made no later than 48 hours in advance of the scheduled appearance time in writing to the Part Clerk by email (above) and to jdtownes@nycourts.gov with the subject line **PART 21 ADJOURNMENT (DATE & TIME)** (in bold capital letters) and by calling (718)-618-1453. Requests may be granted by chambers if the request is on consent of all parties. If the parties do not consent, the court will entertain a brief conference with all parties to determine whether the adjournment is reasonable (e.g., scheduled mediation, settlement negotiations, resolution, etc.) No adjournment requests will be entertained without all parties participating in the conference. Potential dates amenable to all parties must be presented at the time the adjournment is sought. The Court **must** approve adjournments for appearances.

Adjournment of motions by stipulation of the parties without the Court's approval are unacceptable after 60 days from the first return date. Unless the court orders otherwise, no motion may be adjourned on consent more than three times or for a cumulative total of more than 60 days. Any stipulation or request for an adjournment of more than sixty (60) days after the original return date must include an explanation. If the requesting party does not provide an explanation under these circumstances, the adjournment request will be denied. It is the burden of the parties to inquire as to whether the stipulation was approved by the Court. Oral applications will not be entertained – no exceptions.

Adjournments requested due to actual engagement on trial must be accompanied by the attorney's Affirmation of Engagement in conformity with 22NYCRR Part 125.

Requests to adjourn discovery motions shall be handled by the discovery part (Part 11, ext. 1226).

Orders to Show Cause

Motions shall be brought on by order to show cause (OSC) only when there is genuine urgency (e.g., applications for provisional relief), a stay is required or where mandated by statute. Ex-parte

(OSC) litigants are to serve and notify all parties of the conference date/time by certified mail/return receipt and provide the court with proof of service at least one week prior to the initial conference but not later than 9:30 on the date of the conference. Proof of service must be filed with the Clerk, and e-mailed to the Court (to both jgreen1@nycourts.gov and jdtownes@nycourts.gov). Once the court receives contact information for the parties, the conference date, time and link to the conference will be included in the email generated by the Court to schedule virtual conferences. Orders to Show Cause must comply with Uniform Rule 202.7(d). All Orders to Show Cause are returnable on Mondays, except for Court holidays. Non-compliance shall result in denial of the Order to Show Cause.

3. To ensure that all parties receive communications and that the Court can simultaneously reach the parties, counsel is required to exchange email addresses, notify each other of communications by email and provide email addresses on all communications between each other and the court. Please ensure that any change is shared with the Court/Parties.
4. 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. 1196). All decisions and orders (including stipulations) are scanned and available on the Internet (NYSCEF or Bronx County Clerk).

Electronic Submission of Papers

By Administrative Order of the Deputy Chief Administrative Judge for New York City Courts, Hon. George J. Silver (AO/212/20, dated December 31, 2020), in conformance with the Administrative Order of Chief Administrative Judge Lawrence K. Marks (AO/267/20), all filings after December 31, 2020 in Bronx courts of all case types, with few exceptions, shall commence or proceed in pending matters exclusively by electronic filing through NYSCEF.

In cases not pending in the court's NYSCEF system, counsel is to communicate with the court and each other by e-mail. Existing matters not electronically filed should be converted by stipulation or letter application pursuant to NYSCEF Rules. In the court's discretion, counsel maybe requested to submit documents by e-mail.

Form of Papers

Every filing shall have appropriate proof of service on all parties annexed to the papers. 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 section 202.5 a) of the Uniform Civil Rules for the Supreme Court and the County Court). Documents in a foreign language shall be translated as required by CPLR 2101(b). **Please see the Uniform Rules regarding other new requirements.**

Motion Practice (General)

Please do not send paper working copies of electronically-filed motion papers. (AO/121/20).

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. 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, without 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

Timing NOTE: 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.

Statement of Material Facts: Motions for summary judgment, other than a motion made pursuant to CPLR 3213, must now include, 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. The papers opposing the motion 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. 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. Each statement of material fact by the movant or opponent, including each statement controverting any statement of material fact, must be supported by followed by citation to evidence submitted in support of or in opposition to the motion.

Oral Argument

Any party may request oral argument of a motion. 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.

Remote appearances via Microsoft Teams

Microsoft Teams is an audio video communication platform that the Courts use for their conferences. “Teams” has many features. You may download Teams for free and training is available in the virtual court resource center at the NY court portal website. For more information please visit nycourts.gov/appear. Proper attire for all participants is required for Teams video 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.