

HENRY J. NOWAK, J.S.C

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Court Clerk:	Elaine Xenos	(716) 845-2759	exenos@nycourts.gov

MOTIONS

Motions are returnable every Thursday at either 9:30 am or 2:00 pm, with virtual appearances through Microsoft Teams. Before oral argument, counsel and self-represented litigants should (1) review the information at www.nycourts.gov/appear, and (2) make arrangements to use a computer, smartphone or other device with sufficient internet access and an adequate camera, microphone and speaker to fully participate.

Motions brought by order to show cause shall include the following:

“Oral argument shall be held via Microsoft Teams on _____, 2021 at _____. Please contact Court Secretary Sara Mazgaj at smazgaj@nycourts.gov or (716) 845-9477 to obtain a link to appear for oral argument. For information on joining a Microsoft Teams meeting, visit: www.nycourts.gov/appear.”

At oral argument, the court will permit multiple attorneys to argue different points for each party. Such practice is encouraged when multiple attorneys researched and briefed various issues.

All oral decisions by the court are recorded. Oral argument is recorded as a matter of course only if there is an appearance by one or more self-represented litigants. In cases where all parties appear by counsel, oral argument will be recorded only upon prior stipulation by counsel that the transcript of the argument will be requested and included in any record on appeal.

MOTION PAPERS

By administrative order, hard copies of motion papers are not to be provided to the court at this time. In the event that order is lifted, parties shall provide chambers with hard copies of notices of motion, affidavits, and memoranda of law. Hard copies of e-filed exhibits shall not be submitted absent a specific request by the court. Do not send any motion papers by fax. Binding of papers is discouraged.

ADJOURNMENTS Requests for adjournments must be made at least one business day before the scheduled appearance. Motions must be adjourned to a specific date and will not be generally adjourned. All requests for adjournments must be approved by the court, and only after consent is sought from opposing counsel. Any party or attorney refusing to consent to an adjournment must demonstrate a sound basis for that refusal. Upon receiving an adjournment, the requesting party must send e-mail confirmation of the adjournment and the rescheduled date to all parties and the court.

ORDERS Proposed orders are to be provided to all attorneys and self-represented litigants at least five days before being e-filed or submitted to the court for signature. The court will entertain requests to shorten the five day requirement if circumstances warrant. Any objection to a proposed order shall be settled pursuant to Uniform Rules for the New York State Trial Courts § 202.48.

DEADLINES BEFORE TRIAL Expert disclosure shall be made thirty days before trial, absent good cause shown. One week before jury selection, marked pleadings, requests to charge, witness lists and proposed verdict sheets shall be submitted to chambers. Motions *in limine* shall be filed and served so as to be heard before commencement of jury selection.

COMMERCIAL ACTIONS **Applicability of Rules of Practice for the Commercial Division**
Except as otherwise stated herein, all commercial actions are subject to the rules of practice set forth in Uniform Rules for the New York State Trial Courts § 202.70 (g), including Rule 13 (c) concerning expert disclosure.

Requests for Temporary Restraining Orders

All requests for TRO's must be made on notice to opposing counsel if known. TRO's for other Justices will be signed only with approval of that Justice or Justice's Law Clerk.

Preliminary Conferences

A preliminary conference will be scheduled upon receipt of a filed RJI and verification by the court that the case meets the jurisdictional requirements for the Commercial Division. At least one day before the conference, counsel shall provide chambers with a one paragraph summary of the case, preferably by e-mail to Sara Mazgaj at smazgaj@nycourts.gov. At the conference, counsel and self-represented litigants should be prepared to discuss appropriate deadlines and their availability for future appearances, as well as any objection to mediation or other methods of alternative dispute resolution.

ADDITIONAL RULES Please be advised that the court utilizes specific written procedures for summary jury trials and motions to withdraw as counsel. Request such procedures when appropriate.