

HONORABLE CHRISTIE L. D'ALESSIO

New York State Supreme Court

Dutchess County Chambers
10 Market Street
Poughkeepsie, New York 12601

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Part Rules

(Effective as of 1/3/2022)

These Rules are subject to change.

Please also refer to the Court's website for any further guidelines and directives related to court operations at www.nycourts.gov

COURT APPEARANCES:

- (a) Within ten (10) days of written notification of this Part's assignment to a case, or written notification of a Preliminary Conference, whichever shall first occur, each attorney shall file a Notice of Appearance with chambers. The Notice of Appearance shall include the attorney's name, firm affiliation, mailing address, e-mail, telephone and facsimile number as well as the party represented. The Notice of Appearance shall also contain a written acknowledgment that counsel is familiar with these Part Rules.
- (b) Pursuant to §130-2.1 of the Rules of the Chief Administrator of the Courts, the Court may impose financial sanctions and award costs and reasonable attorney's fees against any attorney who, without good cause, fails to appear at a time and place scheduled for an appearance in any action or proceeding.
- (c) Pursuant to §202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party in appearing at a scheduled call of a calendar or at any conference, the Court may grant judgment by default against the non-appearing party.
- (d) Any attorney appearing at a scheduled conference or any other case-related appearance before the Court shall be thoroughly familiar with the action and authorized to act on behalf of a party to the action or proceeding.

ADJOURNMENT REQUESTS:

- (a) Request(s) for adjournments of scheduled **trials and hearings** are not permitted except as provided in 22 NYCRR §125.1 and in accordance with the procedure set forth therein.
- (b) Request(s) for adjournments of **motions and conferences shall be on consent of opposing counsel. REQUESTING COUNSEL SHALL FILE ANY ADJOURNMENT REQUEST TO NYSCEF. FOR NON-NYSCEF CASES, COUNSEL SHALL FAX ANY ADJOURNMENT REQUEST TO THE PART CLERK: #(212) 266-9526. REQUEST TO ADJOURN A CONFERENCE MUST BE SUBMITTED TO THIS COURT AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED APPEARANCE.** No more than two adjournments shall be permitted on any matter unless good cause is shown upon written application made to and approved by the Court. WHEN REQUESTING AN ADJOURNMENT OF A CONFERENCE OR MOTION, THE LETTER REQUEST SHALL INCLUDE THE CURRENT RETURN DATE OF ANY PENDING MOTION(S) AND ANY CONFERENCE DATE.

PRELIMINARY CONFERENCES:

A party may request a preliminary conference at any time after issue has been joined. Notwithstanding the absence of such request, the Court will schedule a preliminary conference within forty-five (45) days after an RJI has been filed on a matter. A form stipulation and order shall be provided to the parties which shall establish a timetable for discovery within parameters set forth by the Court after determination as to whether a matter should be designated as a “standard” or a “complex” case. If all parties sign the stipulation and return it to chambers prior to the scheduled conference, such form shall be “so ordered” by the Court and, unless the Court orders otherwise, appearances will not be required at the preliminary conference. Once the stipulation has been “so ordered”, no modifications are permitted except by written order of the Court.

FORECLOSURE ACTIONS:

Any court-ordered foreclosure sale shall be held in the rear lobby of the Dutchess County Courthouse, 10 Market Street, Poughkeepsie, New York 12601 at 2:30p.m.

MATRIMONIAL ACTIONS:

- (a) No later than ten (10) days prior to preliminary conference in any matrimonial action, each party shall file and serve copies of the following documents:
 - 1. Signed Retainer agreement
 - 2. Net worth statement
 - 3. Most recent paystub and income tax return
- (b) Parties must be present at the preliminary conference.
- (c) Any application regarding child support must be accompanied by a completed Child Support Worksheet.

COMPLIANCE CONFERENCE:

- (a) The preliminary conference stipulation and order shall provide a date and time for the parties to appear at a compliance conference.
- (b) At the compliance conference, the Court will ensure that discovery is proceeding as scheduled. Any further compliance conference(s) will be scheduled by the Court as deemed appropriate. Notwithstanding, discovery shall be timely completed within the discovery timetable set forth in the preliminary conference stipulation (and any subsequent court order revising such timetable).
- (c) Unless a note of issue has been earlier filed, the Court shall direct a date as the deadline for filing a note of issue and certificate of readiness.

MOTIONS:

- (a) Motions are returnable on any day of the week. There will be no appearances unless specifically stated by the court.
- (b) Original initiating motion papers should be submitted directly to the County Clerk accompanied by an affidavit/affirmation of service and the required fees. All answering and reply papers should be submitted directly to chambers. **DO NOT SUBMIT COURTESY COPIES. MOTION PAPERS MUST BE BOUND TOGETHER. THE COURT WILL NOT ACCEPT LOOSE MOTION PAPERS, AFFIDAVITS, AFFIRMATIONS OR EXHIBITS**
- (c) Motion papers must be accompanied by proof of payment to the County Clerk of all required fees.
- (d) All affirmations, affidavits and memoranda of law must contain numbered pages.
- (e) All citations must be to an official state reporter, if available.
- (f) All documents required to decide the application must be attached. It is not sufficient that documents may be on file with the Clerk of the Court.
- (g) The Court does not accept sur-reply papers or correspondence on motions, nor any papers filed after the final submission date of the motion.
- (h) Motion papers, orders and judgments must be accompanied by a stamped, self-addressed envelope. Counsel submitting motions with a proposed order/judgment must submit an unattached copy of that proposed order/judgment. Counsel must provide an additional copy of any order and judgment submitted to conform to the original.
- (i) All motions will be decided by paper submission only. Personal appearances are not required on the return date unless the Court specifically directs oral argument.
- (j) **SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTIONS MUST BE MADE WITHIN 60 DAYS AFTER FILING THE NOTE OF ISSUE.**
- (k) Any motions seeking to preclude potential evidence from admissibility at trial shall be made in writing and shall be returnable at least thirty (30) days in advance of trial.
- (l) **NO ADJOURNMENTS** on a motion will be granted with a return date within thirty (30) days prior to the date of trial.
- (m) **COUNSEL SHALL IMMEDIATELY NOTIFY THE COURT WHEN IT BECOMES UNNECESSARY TO RENDER A WRITTEN DECISION ON A PENDING MOTION.**

E-FILING RULES AND PROTOCOLS:

- (a) **Electronic Filing.** All parties should familiarize themselves with the statewide E-Filing Rules (*see* Uniform Rules §§ 202.5-b and 202.5-bb, available at www.nycourts.gov/efile). General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@courts.state.ny.us.

All actions required to be filed electronically shall be filed through the New York State Courts E-Filing system (NYSCEF), including proposed orders, proposed judgments, and letters.

- (b) **Working Copies.** This Part requires one working copy of each motion submission, including all exhibits and proposed orders (*see* Uniform Rule §202.5-b[d][4]). The NYSCEF Confirmation Notice generated when the motion is e-filed must be firmly attached to the front page of the motion submission. Working copies that do not include the NYSCEF Confirmation Notice may be rejected. Working copies shall be received by Chambers on or before the return date or notice of settlement date. **In the event of a failure to timely submit working copies to Chambers on or before the return date, the Court has the discretion to either (i) adjourn the motion return date to provide additional time to submit working copies of the motion, or (ii) deny the motion based upon noncompliance with the part rules.**

EXPERT DISCLOSURE:

No later than 30 days after filing a note of issue, the Plaintiff shall serve all other parties with expert disclosure per CPLR § 3101(d). Defendant(s) shall then have 60 days to serve any expert disclosure per CPLR §3101(d).

Any adjournment of the above deadlines, and any amended or supplemental expert disclosure requires leave of the Court. The statutory stay of disclosure (CPLR 3214[d]) upon the service of a dispositive motion under CPLR 3211 shall not apply to the service of expert disclosure. Unless the Court directs otherwise, a party who fails to comply with this rule is precluded from offering the testimony and opinions of the expert for whom a timely response has not been given.

PRE-TRIAL CONFERENCE:

- (a) A Pre-Trial Conference shall be scheduled within 45 days of the filing of a note of issue.
- (b) There shall be one or more pre-trial conferences after the note of issue is filed.
- (c) The Court will explore limitation of issues for trial, including referring certain issues to a referee if appropriate.
- (d) The Court will schedule a date certain for trial of all outstanding issues.
- (e) Counsel should be prepared to discuss settlement and should have full authority from their respective clients and/or the respective insurance carrier.
- (f) At any pre-trial conference held 30 days or fewer before trial, the parties and/or their counsel shall be prepared with trial notebooks and any matter any party believes should be brought to the court's attention regarding trial preparation, including those delineated in the "Trial

Rules and Procedures for Trial Counsel” below. Only the plaintiff shall submit marked pleadings. For jury trials, all parties shall submit a proposed verdict sheet and list of proposed charges. For matrimonial cases, Statements of Proposed Disposition shall be submitted per 22 NYCRR §202.16(h).

- (g) Only the parties and the attorneys fully familiar with the action and authorized to make binding stipulations, or accompanied by a person authorized to act on behalf of the party represented, will be permitted to appear at a pre-trial conference.
- (h) Counsel shall advise as to the availability of all witnesses and subpoenaed documents. The Court shall be informed of any request(s) for reasonable accommodations (i.e., a New York State certified court interpreter for any non-English speaking witness or deaf witness, by way of example).

TRIALS:

- (a) Once scheduled, a trial shall not be adjourned for any reason other than the actual engagement of counsel as provided for in §125.1 of the Rules of the Chief Administrator of the Courts. Any application for an adjournment must be made in writing and must be supported by an affirmation of counsel establishing the requisite grounds set forth in 22 NYCRR §125.1.
- (b) Counsel shall refer to the “Trial Rules and Procedures for Trial Counsel” below.

MOTION IN LIMINE:

Any applications addressing the preclusion of evidence, testimony or other trial related matters shall be brought to the attention of the court immediately upon counsel becoming aware of such matter to be addressed, it being the intent to avoid applications made on the eve of, or during trial of a matter. **AS A GENERAL RULE, ANY MOTION(S) IN LIMINE SHALL BE MADE RETURNABLE ON OR BEFORE THE PRE-TRIAL CONFERENCE DATE, UNLESS THERE IS GOOD CAUSE SHOWN FOR DELAYED FILING OF MOTION(S) IN LIMINE NO LATER THAN 30 DAYS PRIOR TO TRIAL.** Failure to bring the matter before the court in a timely fashion may result in summary denial of such application.

VIDEOTAPING:

While the court strives for adherence to scheduled jury selection and commencement dates, the court’s trial calendar is such that exact days cannot always be guaranteed. Requests for a continuance or rescheduling due to an expert’s unavailability for testimony generally cannot be granted due to the large number of matters pending for trial. Counsel may use videotaping of experts when necessary.

EXPERT TESTIMONY PRECLUSION:

- (a) Any motion by a party to preclude or limit expert testimony under the expert disclosure part of this order or pursuant to CPLR 3101(d) must be made as soon as practicable.
- (b) Where a party's summary judgment motion is or will be based in whole or in part upon the granting of a motion directed at precluding or limiting expert testimony made pursuant to this part of this order, the motions' return date shall be the same.

SETTLED AND DISCONTINUED CASES:

Counsel shall immediately notify the Court of a case disposition. Thereafter, counsel shall promptly file a stipulation of discontinuance with any appropriate settlement stipulation(s), after which the case will be marked "disposed" and marked off the court's active docket.

Counsel shall promptly notify the court on the status of any case marked "stayed" by a pending bankruptcy proceeding or otherwise. Counsel shall take further proceedings within 60 days after any stay has been lifted.

MENTAL HYGIENE LAW ARTICLE 81 PROCEEDINGS:

- (a) All proceedings instituted pursuant to Mental Hygiene Law §81 *et seq.* will be returnable on a Thursday morning at a date and time to be determined by the Court.
- (b) All proposed orders to show cause must conform with the requirements of MHL §81.07.
- (c) Proposed orders to show cause must contain separate decretal paragraphs for service as provided in MHL §81.07(d)(1) and (2).
- (d) Court evaluators and appointed attorneys must complete and file each of the following forms:
 - 1. Notice of Appointment (UCS-830.1)
 - 2. Statement of Approval of Compensation (UCS-830)
 - 3. Certification of Compliance (UCS-830.3)
 - 4. Affirmation of legal services.

FIDUCIARY APPOINTMENTS:

- (a) In order to be eligible for appointments to serve as a referee, court evaluator, guardian ad litem, receiver, attorney for receiver or attorney for an Alleged Incompetent Person (AIP), counsel must appear on the Part 36 list promulgated by the Office of Court Administration.
- (b) In order to be eligible for appointment to serve as an attorney for the child, counsel must be a member of the appropriate panel.
- (c) Court evaluators and appointed attorneys must complete and file each of the following forms:
 - 1. Notice of Appointment (UCS-830.1)
 - 2. Statement of Approval of Compensation (UCS-830)
 - 3. Certification of Compliance (UCS-830.3)
 - 4. Affirmation of legal services.

TRIAL RULES AND PROCEDURES
FOR TRIAL COUNSEL
HON. CHRISTIE L. D'ALESSIO
DUTCHESS COUNTY SUPREME COURT

1. A. **TRIAL READINESS: All trial dates are final. Counsel must notify all witnesses and experts of the trial date as soon as it is issued by the court.** Prior to jury selection, counsel is cautioned to ascertain the availability of all witnesses and subpoenaed documents. If you have non-English speaking or deaf witnesses, the court must be notified at the pre-trial conference to allow the clerk time to arrange for the presence of a New York State certified interpreter.

B. **BIFURCATED TRIALS:** In the Second Department, personal injury trials other than medical malpractice and wrongful death cases are bifurcated. The damages portion commences with the same jury immediately following a liability verdict. Counsel should have medical testimony and any other professionals for the damages portion ready to proceed at such time.

2. **“TRIAL NOTEBOOK” OR “TRIAL BINDER”**

At least 30 days prior to trial, a “Trial Notebook” or “Trial Binder” shall be submitted to the court containing the following:

A. Marked pleadings as required by CPLR 4012 (including the bill[s] of particular);

B. Probable witness list

C. A copy of any statutory provisions in effect at the time the cause of action arose upon which either the plaintiff or defendant relies;

D. All expert reports relevant to the issues;

E. All reports, depositions, and written statements which may be used to either refresh a witness’ recollection and/or cross-examine the witness;

F. If any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination), you must provide the Court and your adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury.

G. For jury trials:

i. Requests to charge.

ii. A complete list of requested charges drawn from the Pattern Jury Instructions (PJI). A list of the PJI numbers of all charges requested is sufficient. However, if deviations from or additions to the PJI are requested, the full text of such request must be submitted together with any supporting legal precedent.

iii. Proposed verdict sheet.

H. For matrimonial trials:

i. Statements of proposed disposition per 22 NYCRR 202.16[h] are required.

3. **PRE-MARKED EXHIBITS:** All trial exhibits should be pre-marked by the court reporter whenever possible, for identification, and copies of the resulting Exhibit Sheet provided to the Court.

4. **PRE-TRIAL CONFERENCE:** At the Pre-Trial Conference, counsel should be prepared:
 - A. To alert the Court as to all anticipated disputed issues of law and fact, and provide the Court with citations to all statutory and common law authority upon which counsel will rely;
 - B. To stipulate to undisputed facts and the admissibility of clearly admissible documents and records;
 - C. To alert the Court to any anticipated *in limine* motions or evidentiary objections which counsel believes will be made during the course of the trial;
 - D. To provide the Court with a copy of all prior decisions and orders which may be relevant to said *in limine* applications;
 - E. To discuss scheduling as well as the number of witnesses to be called at trial, and the estimated length of the trial;
 - F. To alert the Court as to any anticipated problems regarding the attendance at trial of parties, attorneys or essential witnesses, and any other practical problems which the Court should consider in scheduling;
 - G. To alert the Court to any anticipated requests for a jury instruction relating to missing witnesses and/or documents;
 - H. To alert the Court to any anticipated request for apportionment as to alleged culpable non-parties pursuant to CPLR Article 16.

5. **JURY SELECTION:** THIS PART USES UNDESIGNATED ALTERNATES. There is no exception to this rule.

6. **NO COMMUNICATION WITH JURORS:** In order to maintain the appearance of total impartiality, once the jury has been selected no one is to communicate in any form at any time with any juror. This includes both verbal and non-verbal communication, including, without limitation, nods, shrugs and shaking the head. Do not even say “hello” or “good morning”.

7. **TRIAL OBJECTIONS AND ARGUMENTS:** When making an objection, after saying the word, “objection”, add only those few words necessary to state the generic grounds for the objection, such as “hearsay”, “bolstering”, “leading”, or “asked and answered”. If you believe further argument is required, ask for permission to approach the bench.

8. **COURTROOM DEMEANOR:** All remarks should be directed to the Court. Comments should not be made to opposing counsel. If you require a significant discussion with your adversary, such as possible stipulation, ask for permission to approach the bench, so you may have an opportunity to discuss the issue(s) with your adversary outside of the presence of the jury.

9. **USE OF PROPOSED EXHIBITS:** Do not show anything, including an exhibit or proposed exhibit to a witness without first showing it to opposing counsel. If this procedure is claimed to compromise trial strategy, a pre-offer ruling outside the presence of the jury should be first obtained.

10. **EXAMINATION OF WITNESSES:** Do not approach a witness without permission of the Court. Please allow the witness to complete his/her answer to your question before asking another question. Do not interrupt the witness in the middle of an answer, unless it is totally non-responsive to the question asked, in which event you should state your objection and seek a ruling from the Court. Direct examination, cross examination, redirect, and re-cross are permitted.

11. **JURY CHARGE AND VERDICT SHEET:** At the Pre-Trial Conference or, if unable to do so by such date, then upon commencement of the trial, all counsel shall submit suggested jury charges and a suggested verdict questionnaire. Amendments thereto shall be permitted at the final charging conference. If counsel relies on a Pattern Jury Instruction [PJI] without any change thereto, it should be referred to by PJI number and topic only. If any changes to the PJI are suggested, then the entire proposed charge should be set forth and the changes should be highlighted or otherwise called to the Court's attention. Citations to appropriate statutory or common law authority shall be given in support of suggested non-PJI jury charges or suggested PJI modification.

12. **POST-TRIAL INTERVIEW WITH JURORS:** Any contact or discussion with jurors after a verdict is rendered may be conducted outside this part, not in the jury room or adjacent to it.

ELECTION RULES
RULES FOR HON. CHRISTIE L. D’ALESSIO
DUTCHESS COUNTY SUPREME COURT

- (1) Orders to Show Cause to validate or invalidate designating or nominating petitions will be made returnable no later than five (5) days after the last day to statutorily commence such proceedings. A copy of these rules shall be attached to the original and each copy of the Order to Show Cause.
- (2) The calendar call on the return date must be answered by counsel or the litigant(s), (self-represented) who shall provide the Part Clerk with their addresses, telephone numbers, and email addresses (if available). Non-lawyer “representatives” of the parties are not permitted to answer the calendar call. Proof of service of the Orders to Show Cause, as well as any interposed Counterclaims or Answers, shall be filed with the Part Clerk at or before the initial appearance.
- (3) ON OR BEFORE THE RETURN DATE AND TIME:
 - (A) a written offer of proof in any matter alleging a question of residency of a candidate shall be filed with the court clerk and served on the opposing party;
 - (B) specifications of objections or bills of particulars not previously served and/or filed with the Board of Elections shall be filed with the court clerk and served on the opposing party;
 - (C) a complete written offer of proof in all matters alleging fraud including identification of witness(es) to be called, their names and addresses, volume, page and line together with status of each (candidate, signatory, notary, expert, subscribing witness, etc.) shall be filed with the court clerk and served on all opposing parties.

FAILURE TO COMPLY WITH SECTION A, B, OR C OF THIS PARAGRAPH SHALL BE DEEMED A WAIVER, AND FURTHER PROOF MAY BE PRECLUDED, EXCEPTING THE TESTIMONY OF A WITNESS THE COURT DETERMINES COULD NOT BE IDENTIFIED BEFORE THE RETURN DATE.