

Part Rules & Calendar Procedure

Orange County Supreme Court

**Honorable E. Loren Williams
Justice of the Supreme Court**

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GENERAL RULES OF THE COURT

I. E-FILING

E-Filing Rules and Protocol: All parties must familiarize themselves with the statewide E-Filing Rules Uniform Rule § 202.5 and § 202.5-bb - available at www.nycourts.gov/efile and the Orange County E-Filing Protocol. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@courts.state.ny.us.

Specific questions relating to local procedures should be addressed to the Chief Clerk's Office at (845) 476-3429.

Electronic Filing: Supreme Court actions in the Hon. E. Loren Williams Part may be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

PLEASE DO NOT PROVIDE WORKING COPIES.

II. COMMUNICATION WITH THE COURT

Correspondence: In e-filed cases, all correspondence to the Court shall be e-filed and set forth the name, index number of the case to which it pertains, and indicate that a copy of the correspondence was sent to all other counsel and/or self-represented litigant(s). Correspondence between attorneys and/or self-represented litigants shall not be copied to the Court unless the Court directs otherwise.

THE COURT DOES NOT PERMIT LITIGATION BY CORRESPONDENCE. CORRESPONDENCE SHOULD NOT BE SUBMITTED, AND WILL NOT BE CONSIDERED, IN DETERMINING MOTIONS, ETC.

Telephone Calls: Telephone calls shall be limited to situations requiring immediate attention which cannot be addressed by written correspondence. Requests for adjournments WILL NOT be entertained by telephone.

Faxes: The fax number for Judge Williams' matters, other than those which require electronic filing is (845) 476-3503.

Email: Unless specifically approved or directed by the Court in advance, the Court does not accept legal papers or correspondence of any kind by e-mail.

Ex Parte Communications: Ex Parte communications with the Court are strictly prohibited, except where an Order to Show Cause is submitted for signature, or upon consent of all parties during settlement negotiations.

III. CONFERENCES

General Rules: All conferences are being held in person. In extenuating circumstances, the court *may* allow a conference to be held virtually.

General Civil Preliminary Conferences: The Part Clerk will notify the parties of the date and time of their scheduled Preliminary Conference. At that time, the parties will also receive blank Preliminary Conference Stipulation/Order. If the parties submit a proposed Preliminary Conference Stipulation/Order for the Court's consideration, and it is So-Ordered by the Court, no appearance is necessary at the scheduled Preliminary Conference. Should the parties fail to submit a proposed Preliminary Conference Stipulation/Order appearance is required on the conference date.

Matrimonial Preliminary Conferences: In matrimonial actions, the following documents shall be provided to the Court prior to or at the preliminary conference:

Plaintiff – All pleadings, all prior orders (including orders from Family Court, County Court or Justice Courts), including orders of protection, Net Worth Statement, Tax returns for the proceeding 3 years, three current pay stubs, copy of signed retainer agreement.

Defendant – Net Worth Statement, Tax returns for the proceeding 3 years, three current pay stubs, copy of signed retainer agreement.

Compliance/Status Conferences: The Court will conduct compliance/status conferences as it deems necessary on a case-by-case basis.

Settlement Conferences: In-person settlement conferences in any matter may be conducted where permitted and appropriate. Parties may request assistance from the Court, by submitting a letter via NYSCEF requesting a settlement conference. Counsel must be fully familiar with the matter(s) on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their clients. Counsel must be on time for all scheduled appearances and must bring sufficient materials to allow meaningful discussion of all unresolved issues. Attorneys appearing “of counsel” to an attorney of record, and parties appearing *pro se*, are held to the same standards.

Settlement Letter: Seven (7) days prior to your scheduled settlement conference, each party shall submit to the Court, ex-parte, a brief letter (not exceeding three pages) outlining the relevant facts of the case, the law that supports their claims/defenses, the parties’ present settlement posture, history of settlement discussions, and the authority for the settlement demands based on reported settlements or jury verdicts relevant to the claimed damages. The letters shall be provided to the Principal Law Clerk via email.

Adjournment of Conferences: Request for a conference adjournment must be made by writing a letter and e-filing the letter in NYSCEF. The **only exception** is if the matter is a non-e-file/paper case, then the request may be made by emailing the Part Clerk. All letters must be submitted no later than 3:00 p.m. two days prior to the scheduled conference. All requests must set forth: (1) the reason why an adjournment is necessary, (2) whether the opposing party/parties consents or objects to the application, and (3) at least three proposed adjourn dates. A response to the request will be given via NYSCEF. If a response is not given prior to the scheduled conference time, then consider it denied.

IV. DISCOVERY

Discovery disputes should be addressed between the parties prior to the Compliance Conference as required by Court Rule 202.7.

There shall be no motion(s) regarding discovery without prior permission of the Court. If there is a discovery issue requiring judicial intervention, notify the Court in writing. The correspondence shall set forth the relief sought and the basis for such relief. If necessary, the Part Clerk will then schedule a conference for the purpose of hearing and resolving the discovery issue. When the conference does not resolve the discovery issue the party seeking the relief may proceed with a motion.

Adjournment Requests of Discovery Deadlines: For any adjournment request of pending discovery deadline, the requesting party shall submit a letter via NYSCEF indicating: (1) whether the adjournment is on consent and, if not, what efforts were made to obtain consent; (2) set forth a reasonable basis for the adjournment; and (3) submit a proposed amended compliance order.

V. MOTION PRACTICE

Motion Calendar and Appearances: All motions/proceedings brought on by notice of motion or notice of petition shall be made returnable before the Court on ***Fridays*** when the Court is in session. There are no appearances on the return date of the motion unless directed by the Court or unless oral argument is requested in writing and granted. All papers submitted in connection with motions shall bear page numbers. Exhibits annexed to all motions are to be separated by external tabs to permit easy identification of the exhibit.

Time for Filing and Serving Summary Judgment Motions: Summary judgment motions shall be filed with the Court and served upon all other parties no later than one-hundred twenty (120) days after the filing of the Note of Issue. If an application to extend the time to make such a motion has been granted by the Court, the moving party must so state in the motion papers.

Cases cited in support of or in opposition to the motion must use the cite to an official state reporter only. All documents needed to reach a decision on the motion shall be attached to the motion papers. It is not sufficient that copies of such documents may be on file with the Orange County Clerk.

There shall be no stay of discovery resulting from the filing of a motion made pursuant to CPLR § 3211 or § 3212 unless otherwise ordered by the Court.
COUNSEL SHALL IMMEDIATELY NOTIFY THE COURT WHEN IT BECOMES UNNECESSARY TO DECIDE A MOTION. FAILURE TO DO SO MAY RESULT IN SANCTIONS.

Motion Conferences: The Court shall determine on a case-by-case basis as to whether a motion conference is necessary. All parties shall receive notice by email of the date and time for such conference.

Submission of Orders and Judgments: An order or judgment shall be submitted with an affidavit of service and be noticed for settlement on a date which complies with 22 NYCRR 202.48. Proposed Judgments/Orders shall be submitted on all unopposed motions. All Orders and Judgments shall be uploaded to NYSCEF system.

Adjournment Requests for Motions: Any adjournment request for a pending motion (opposition and/or reply) deadline must be made by filing a letter via NYSCEF (copying all parties) and indicate: (1) whether the adjournment is on consent and, if not, what efforts were made to obtain consent; (2) set forth a reasonable basis for the adjournment; and (3) provide a proposed adjourned date.

VI. INFANT COMPROMISE

In order to receive a hearing date on an infant compromise, the following must be filed with the application:

- (1) An Order to Show Cause
- (2) Attorney’s Affirmation (see CPLR §1208 & NYCRR § 202.67)

must including the following:

- (a) reasons for recommending settlement
 - (b) complaints and condition of infant for reasoning
 - (c) statement that the attorney has not become concerned in the settlement at the instance of a party or party opposing, nor will receive any compensation from such party, whether he has represented any other person arising from same incident
 - (d) list of services rendered by attorney
 - (e) itemized list of costs if requesting reimbursement
 - (f) total amount of medical expenses incurred and any remaining balance
 - (g) copy of retainer agreement with number assigned by Office of Court Administration
 - (h) parent or legal guardian has standing
 - (i) documents showing absence or existence of liens
 - (j) any other related claims
- (3) Infant Affidavit (if over 14 years old) or Parent's/Guardian's Affidavit (see CPLR §1208), must include the following:
- (a) standing to bring action - name, residence, relationship to infant, and name, residence of infant
 - (b) circumstances giving rise to action
 - (c) nature and extent of damages
 - (d) treating physicians, medical expenses, disability, lost wages, knowledge of infant's current medical condition and complaints
 - (e) acknowledge understanding of settlement – terms and approval
 - (f) any other petition or motion for same claim
 - (g) list of medical expenses, whether received reimbursement for expenses

- (h) any other family member making a claim from same incident
- (4) Supporting medical records (see CPLR §1208[c])
- (5) Physician Affidavit or Letter
 - (a) **must be within one year of the application**
 - (b) must include diagnosis of the infant's injuries and state whether future medical treatment is needed
- (6) Proposed final Order

STRUCTURED SETTLEMENTS must include the following:

- (1) Proposed settlement agreement (see Gen. Oblig. Law § 5-1701)
- (2) Proposed qualified assignment agreement (see 26 USCA § 130)
- (3) Proposed annuity contract (see Gen. Oblig. Law § 5-1701)
- (4) Proposed guaranty agreement
- (5) Attorney Affidavit - must include the following:
 - (a) due diligence in the selection of an annuity
 - (b) plaintiff has been provided with disclosures required by Gen. Oblig. Law § 5-1702
 - (c) plaintiff has been provided with copies of all documents
- (6) Parent/Guardian Affidavit – must include the following:
 - (a) acknowledge receipt of all documents and attorney's affirmation
 - (b) acknowledge receipt of initial disclosures required by Gen. Oblig. Law § 5-1702
 - (c) acknowledge that attorney fully explained settlement

(7) Structure Settlement Broker's Affidavit – must including the following:

(a) cost to purchase the annuity was arrived at after a survey of the market of annuity providers in order to confirm the best value

(b) description of all other plans considered

(c) all other warrantees, assurances and affirmations

(8) Comparison proposals - accepted proposal and at least two rejected/alternative proposals that are the same cost and have the same payout terms

VII. TRIALS

Pretrial Settlement Conference: At the pretrial conference, all counsel must be present and prepared to engage in good faith settlement negotiations. All counsel must be vested with the full authority to negotiate and settle the matter.

All parties and insurance carriers are to either be present or available by telephone.

A party represented by an attorney without authority to negotiate and settle the matter may be considered in default, and the Court may issue appropriate orders pursuant to CPLR 3215 and 22 NYCRR 202.27.

Trial Notebook: No later than FIFTEEN (15) BUSINESS DAYS prior to the scheduled trial date, counsel shall each provide to other (one copy) and submit to the Court (one hardcopy and e-file via NYSCEF) a trial notebook which shall consist of:

(1) Marked pleadings in accordance with CLR § 4012.

(2) Statement of relevant facts stating separately those that are not in dispute and those that are.

(3) Pre-trial memorandum addressing any known or anticipated legal issues that must be determined by the Court.

(4) A list of all potential witnesses for each party. Any witness not included herein, shall not be allowed to testify, without the Court's approval.

- (5) Exhibits (include a cover page with a list of the exhibits) to be offered into evidence at trial by each party with a brief description of each exhibit (There is no need to annex copies of medical records to the trial notebook).
- (6) Jury Trial - Preliminary requests to charge. The charges will be drawn from the most recent version of the Pattern Jury Instructions (PJI). Unless counsel seeks a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted in writing together with any supporting authority. **An electronic version of PJI variations must be submitted in Microsoft Word format via e-mail to the Principal Law Clerk and the Assistant Law Clerk.**

If the parties do not agree on the PJI's to be utilized, then a letter must be submitted stating which PJI's are in dispute and each party shall submit the proposed PJI's (for the ones that are in dispute).

- (7) Jury Trial – Post-evidence requests to charge. Separate into liability and damages phase instructions. Follow the same instructions set forth in paragraph 6 above.
- (8) Jury Trial – Verdict Sheet. The parties shall jointly prepare and submit a verdict sheet to the Court. If agreement cannot be reached as to the same, each party shall prepare and submit a proposed verdict sheet to the Court and other parties. A proposed verdict sheet must be in a final typewritten form sufficient to submit to the jury. The proposed verdict sheet shall also be in Microsoft Word format and be submitted by e-mail to the Principal Law Clerk and the Assistant Law Clerk.

Charge Conference: Said conference shall be conducted by the Court in a timely fashion prior to the case being sent to the Jury. Any disputes regarding post-evidence charges and verdict sheets will be resolved during the conference.

Motions in limine: All motions in limine must be e-filed or submitted to the Court, with notice, no later than ten (10) business days prior to the scheduled date of the trial or hearing. Except as otherwise directed by the Court, motions in limine shall not exceed ten (10) pages in length. Failure to submit the motions in limine within the requisite time frame will result in the motion not being considered.

Interpreters; Other Special Accommodations: Counsel shall notify the Court and/or Part Clerk as soon as possible, but not later than the time of the Settlement Conference in the event a translator or interpreter is required at trial. If a party of a witness requires some accommodation, such as an assisted hearing device, counsel shall notify the Court as soon as possible.

For motor vehicle and most other personal injury cases, the issues of liability and damages are bifurcated for trial, with sufficient time between the end of the liability phase and the commencement of the damages phase to explore settlement options and to schedule necessary witnesses, etc. If there is a compelling reason for the issues to be tried together, counsel must raise that issue with Court as soon as possible, and in no event later than the filing of the Note of Issue and the scheduling of a trial date.

Post-Trial Submissions: Motions brought by a party after jury trial pursuant to CLR § 4403 or CLR § 4404 must be supported by a copy of the trial transcript.

Post-Trial Memorandum: If the trial is a non-jury trial, post-trial memorandums shall be required and submitted in a timely fashion as determined by the Court.

Settled and Discontinued Cases: Counsel shall immediately notify the Court of a settled or discontinued matter. Within thirty (30) days of the initial notification, counsel shall file a fully executed stipulation of discontinuance via NYSCEF.

VIII. INQUESTS

Pretrial Conference: A pretrial conference will be scheduled, wherein the inquest will be scheduled. Counsel is to ensure that a note of issue has been filed.

Trial Notebook: No later than FIFTEEN (15) BUSINESS DAYS prior to the scheduled inquest date, counsel shall each provide to other (one copy) and submit to the Court (one hardcopy and e-file via NYSCEF) a trial notebook.

For an inquest, follow all applicable rules under the “Trials” section of these part rules.

APPENDIX OF FORMS

1. Compliance Order

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF ORANGE

-----X

-against-

Plaintiff(s),

Defendant(s).

-----X

COMPLIANCE ORDER

Index # EF _____

Hon. E. Loren Williams

In this action, there is still outstanding discovery. Accordingly, the Court amends all prior orders, and it is hereby ORDERED:

Parties are to provide responses to any outstanding discovery demands by _____.

All depositions are to be completed on or before _____. For each deposition taken, Post-EBT demands are to be made within two weeks after the completion of the deposition and Responses to Post-EBT demands are to be provided within two weeks after receipt of demands.

IME(s) to be completed on or before _____, with the report to be exchanged 45 days thereafter.

Note of Issue to be filed by _____. Additionally:

Status Conference set for _____ at _____ a.m./p.m., attorneys are to appear in person, Courtroom 6.

Settlement Conference set for _____ at _____ a.m./p.m., attorneys are to appear in person, Courtroom 6. Seven (7) days prior to a scheduled settlement conference, each party shall submit to the Court, ex-parte, a brief letter (not exceeding three pages) outlining the relevant facts of the case, the law that supports their claims/defenses, the parties' present settlement posture, history of settlement discussions, and the authority for the settlement demands based on reported settlements or jury verdicts relevant to the claimed damages.

Date: _____

Ordered:

Hon. E. Loren Williams, J.S.C.

If the parties fail to comply with this Order, a letter providing explanation for the noncompliance must be submitted to the court within seven days. Failure to comply with this Order may result in sanctions and/or an award of attorney's fees.