

## **JUSTICE GERALD E. LOEHR, J.S.C.**

**Westchester Supreme & County Court  
111 Dr. Martin Luther King Jr. Blvd.  
White Plains, New York 10601  
Courtroom 1401  
Tel: (914) 824-5441  
Fax: (646) 963-6630**

### Staff

Bruce J. Pearl, Principal Law Secretary (914) 824-5041  
Jessica Medina & Claudia Santolo, Secretary (914) 824-5441  
Steve Kelner, Part Clerk (914) 824-5072

The Civil Part of Gerald E. Loehr, Justice of the Supreme Court, Westchester County, shall be conducted pursuant to the following information, practices, rules and procedures (revised 03/01/18):

Counsel must be fully familiar with the Uniform Civil Rules for the Supreme Court 22 NYCRR Part 202.

### E-Filing Rules and Protocol

All parties should familiarize themselves with the statewide [E-Filing Rules](#) (Uniform Rule §§ 202.5-b and 202.5-bb – available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)) and the [Westchester County E-Filing Protocol](#).

General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386- 3033 or [efile@nycourts.gov](mailto:efile@nycourts.gov).

Specific questions relating to local procedures should be addressed to **the Chief Clerk's Office (914) 824-5300**.

### Electronic Filing

All non-exempt actions before Justice Gerald E. Loehr are to 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. **Copies of electronically filed letters must not be sent by regular mail or facsimile.**

## Working Copies

See Uniform Rule § 202.5-b(d)(4).

This Part requires working copies only for electronic submissions where the affidavits and affirmations exceed 10 pages or the Exhibits exceed 10 pages. Unopposed motions do not require working copies regardless of length.

Working copies shall be delivered to the 13<sup>th</sup> Floor and put in Judge Loehr's basket.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the [front] cover page of the submission and comply with other requirements set forth in the Electronic Filing Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be delivered no later than noon on the first business day following the electronic filing of the document on the NYSCEF site.

## Hard Copy Submissions

Part will reject any hard copy submissions in E-filed cases unless those submissions bear the Notice of Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile).

## Scheduling and Letters to the Court

Counsel/parties should address questions about scheduling appearances or adjourning appearances to the Part Clerk, Steve Kelner, (including the case name, index number, date of next appearance and the post office and email addresses and phone and fax numbers of all counsel). All letters, on any subject, to the Court must be (1) copied to all counsel; (2) contain email address for all counsel; and (3) state the next appearance date. Letters not complying with these rules will be disregarded.

## **Appearances**

Adjournments of appearances are not granted unless (1) there is an affirmation of prior engagement in full compliance with 22 NYCRR § 125.1, and it must include the date the conflicting appearance was scheduled; or (2) there are exceptional circumstances.

Adjournment requests made less than two Court days before a schedule set by the Court will not be considered absent exceptional circumstances.

Do not telephone the Court to determine the status of an adjournment request; the Court will respond as soon as possible. If you do not receive a response, it means the adjournment was not granted.

Note that the party requesting the adjournment is responsible for notifying all parties of the status of the adjournment.

## **Submission of Papers**

All counter-orders and counter-judgments must be submitted with a cover letter and a “red-lined” copy highlighting the language which differs from that of the originally submitted order or judgment. See 22 NYCRR § 202.48.

All proposed orders or other documents for the Judge’s signature must include a signature line with the Honorable Gerald E. Loehr pre-printed.

Proposed orders must include any transcript or other evidence that the Judge has directed the submission of such order.

## **Motion Practice**

Unless an exception is made by the Court, motions are returnable in Judge Loehr’s Part on Wednesdays at 10:00 a.m. Courtesy copies of motions are not required. No papers will be considered after the return date of the motion.

Legal arguments and citations belong in memorandum of law, not affidavits or affirmations.

Motions are on submission; appearances are not required. Oral argument may be requested by noting “Oral Argument Requested” immediately over the index number on the Notice of Motion. If the Court, in its discretion, requires argument, the movant’s attorney will be so advised and will be required to notify all parties.

**Except in E-Filing Cases**, self-addressed stamped envelopes, an email address or fax number must be submitted with all motions for a return decision. Orders and Judgments must also have self-addressed stamped envelopes, an email address or fax number and a copy to be conformed if one is requested.

## **Adjournments**

a) On consent - The clerk of the part is to be advised by telephone, followed by a letter, that the motion is adjourned on consent. A copy of the letter is to be sent to all parties. No more than two adjournments, for an aggregate period of thirty (30) days, without permission of the Court, will be granted. The co-operation of counsel is urged.

b) Opposed - The application must be made in person on the return date of the motion. Alternatively, the application for adjournment may be made via a conference telephone call with all interested parties and the law clerk. The requesting party must advise all parties that the application will be made. Any party wishing to be heard in opposition to the adjournment must appear.

## **Procedures**

A. Papers must be received by the Court on or before the date and time set forth in the Order to Show Cause or return date in the Notice of Motion in order to be considered. Late papers will be rejected unless good cause is shown and there is not prejudice caused by the delay.

- B. Unless stated on the record, the Court does NOT hold motions in abeyance. Motions must be formally withdrawn by letter, or on the record.
- C. The index number shall be clearly shown to the right of the caption of the matter on all litigation papers. The next scheduled appearance date, if any, must also be listed. All other papers and related correspondence must include the same.
- D. Reply papers are to respond to issues raised in opposition to the motion. New issues raised in reply papers shall not be considered without specific permission from the Court. Cross-motions which seek only the denial of the relief in the original motion will not be recognized as motions with respect to which a reply may be submitted.
- E. Sur-replies shall not be considered without specific permission from the Court. Permission is granted only upon a showing of exceptional circumstances.
- F. On motions pursuant to CPLR § 2221, movant must submit copies of all papers on the prior motion. Failure to comply with this provision shall result in the automatic denial of the motion unless another party submits the papers to the Court.
- G. Letters sent to the Court following submission of motions will not be considered.
- H. All cited authorities that are not available on Westlaw must be submitted to the Court.
- I. Affidavits of service must be filed at least two days before the return date unless the Court indicates a different date in an Order to Show Cause. The Court will deny any motion where it has received neither opposition nor an affidavit of service.
- J. Motions for summary judgment shall be filed within 45 days of filing the Note of Issue and be accompanied by a Statement of Undisputed Facts. A motion for summary judgment which lacks this Statement may be rejected.

### Orders to Show Cause

**In addition to the motion rules, the following provisions are applicable to orders to show cause:**

If a requested order has specific urgency, counsel should make the Clerk aware of the issue. The Court will use every effort to address all orders as soon as is practical after their receipt. If a proposed order to show cause contains a request for a temporary order of protection or other emergency ex parte relief, counsel should advise the Part Clerk and should be prepared, with his or her client, for a hearing at such time as the Court will direct. Counsel should not appear without permission from the Court.

If an order to show cause requests temporary relief, counsel must comply with the provisions of 22 NYCRR § 202.7(f). If counsel has complied with this provision, the order to show cause must clearly specify such, either in a separate affirmation clearly marked with a tab, or an accompanying letter to the Court. Failure to comply with this section will result in all temporary relief being struck. Note that compliance with this section does not ensure that temporary relief will be granted.

## Trials

Upon assignment to Justice Loehr, counsel should bring with them:

- 1) a joint statement of the relevant facts that are not in dispute;
- 2) an exhibit list. The attorneys are to pre-mark their exhibits. Only those items which are received in evidence will be marked by the reporter. The reporter is to be provided with an exhibit list. Copies of all exhibits intended to be offered must be presented to the Court in a notebook with a table of contents, with the plaintiff's exhibits numbered and the defendant's exhibits lettered in the order in which they are generally intended to be used. Counsel must be prepared to argue to the Court any exhibits that are not agreed upon;
- 3) a list of witnesses, including the address of each witness and the general subject matter of his or her testimony;
- 4) marked pleadings.

Note that expert reports must comply with CPLR § 3101 and, if applicable, 22 NYCRR § 202.16(g). Failure to exchange and file the reports not later than 60 days prior to the trial date (and replies not later than 30 days before the trial date) may, in the Court's discretion, preclude the use of the expert.

Counsel must submit to the Court any motions in limine, requests to charge and a joint proposed verdict sheet. Counsel must indicate to the Court all requests to charge that are in dispute. Requests to charge shall come from the Pattern Jury Instructions. When counsel requests deviations or additions to the Pattern Charge, the full text of such request must be submitted, with any supporting legal precedent.

If counsel cannot agree on the proposed verdict sheet, each side may submit its own proposed verdict sheet, indicating with a cover letter the disputed issues.

For all bench trials, counsel must submit, within 30 days (or as otherwise set by the Court) a post-trial memorandum, with separate sections for each cause of action. All references to exhibits or testimony must be cited with specificity, and all such documents must be attached. Replies will be due 10 days thereafter, unless the Court otherwise directs.

## **General**

Counsel who appear must be fully familiar with the case and have authority to enter into any agreement, either substantive or procedural, on behalf of their clients. Counsel must be on time for all scheduled appearances and must bring the full file with them each Court appearance.

Interpreters and Special Services: Counsel shall advise the Part Clerk if the services of a foreign language interpreter are required for any party or witness, or if any special services are required for any party or witness who is hearing-impaired or who suffers from any other disability.

## **Settlements & Discontinuances**

If an action is settled, discontinued, or otherwise disposed, counsel shall immediately inform the Court by submission of a copy of the stipulation or other document evidencing the disposition.

## **Communications with the Court:**

### **Telephone calls:**

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.
2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with the Court or with the Law Secretary.
3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.