

HON. HELEN M. BLACKWOOD, A.J.S.C.

PART RULES¹

*Amended December 13, 2023

Effective January 1, 2019

Contact Information:

Address: Westchester County Courthouse
111 Dr. Martin Luther King, Jr., Boulevard
White Plains, New York 10601

Courtroom: Courtroom 304 (Annex)

Chambers Phone: (914) 824-5417
Chambers Fax: (212) 618-7962
Law Clerk Phone: (914) 824-5418
Part Clerks Phone: (914) 824-5665 (Carolyn Gomez)
(914) 824-6358 (Patricia Koo)

Judge Blackwood's Staff:

Principal Law Clerk: Michelle A. Calvi, Esq.
Email: macalvi@nycourts.gov

Secretary: Wanda Medina
Email: wmedina@nycourts.gov

Part Clerks: Carolyn Gomez & Patricia Koo (email both)
Email: cgomez@nycourts.gov
pakoo@nycourts.gov

¹ These Rules supplement and, where inconsistent with, supersede the Uniform Civil Rules for the Supreme and the County Court, 22 NYCRR § 202.1 et seq., and the amendments thereto, which became effective February 1, 2021.

I. General Rules

- A. Appearances by Counsel with Knowledge and Authority: All counsel who appear before the Court must be familiar with the case and be fully authorized to enter into agreements as to both substantive and procedural matters on behalf of their clients. Attorneys appearing “of counsel” to the attorneys of record and self-represented parties shall be held to the same requirements. All counsel and self-represented parties must be on time for all scheduled appearances.
- B. Settlements and Discontinuances: If an action is settled, discontinued, or otherwise disposed of in any manner by the parties, counsel and self-represented parties shall immediately inform the Court by letter or email to the Part Clerks and Principal Law Clerk. Thereafter, counsel and self-represented parties shall timely file the appropriate stipulation through the New York State Courts E-Filing System (hereinafter “NYSCEF”) or by filing a Stipulation of Discontinuance with the Part Clerk, if not an e-filed case. The Court will not mark any matter settled unless it has received a copy of a Stipulation of Discontinuance, the original of which has been filed with the County Clerk.
- C. Conduct of Parties and Counsel: All parties and counsel must conduct themselves appropriately in all proceedings and in their communications with each other and the Court. Personal attacks upon parties or counsel will not be tolerated.
- D. Correspondence: All correspondence to the court must bear the full Title and Index Number of the action and indicate that a copy was sent to all other counsel or self-represented litigant(s) simultaneous with transmittal to the court. In all e-filed cases, correspondence must be transmitted to the court via NYSCEF. In cases that are not e-filed, correspondence to the court must be by email to the Part Clerks and Secretary and copied to all parties. Any *ex-parte* communication is strictly prohibited. Self-represented parties must not contact the Court’s Secretary or Law Clerk and must direct all communications through the Part Clerks.
- E. Papers by Fax: The Court does not accept papers of any kind by fax transmission without prior Court approval.
- F. Scheduling: Counsel and any self-represented party should address questions about scheduling appearances or adjourning appearances to Part Clerks via email.
- G. Duty Part: Subpoena records requests should be dropped off at the Civil Calendar Office window on the ninth floor and picked up at the same window 48 hours later.

II. E-Filing Rules and Protocol

- A. E-Filing Rules and Protocol: Counsel for all parties shall familiarize themselves with the statewide E-Filing Rules §§ 202.5-b and 202.5bb of the Uniform Rules

for the New York State Trial Courts, available at 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. Specific questions about local procedures should be addressed to the Westchester County Supreme Court Civil Calendar Office at (914) 824-5300.

All documents filed in mandatory e-filed cases, except documents subject to the “opt out” provision of § 202.5-bb of the Uniform Rules for the New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, are to be filed through NYSCEF. All submissions to the Court must be electronically filed, including proposed orders, judgments, and letters. Counsel and self-represented parties are expected to keep their contact information updated in NYSCEF.

- B. Working Copies: Working copies are required unless the parties are told otherwise by the Court. They must include a copy of the NYSCEF Confirmation Notice firmly fastened to the front cover page of the working copy and shall be mailed or hand-delivered so as to be received by chambers within 72 hours of submission by e-filing.

III. Motions and Orders to Show Cause

- A. Parties may move by Notice of Motion or Order to Show Cause, depending on the exigency of the relief sought.
- B. Orders to Show Cause:
 - a. Orders to Show Cause submitted for signature shall be presented to the office of the Calendar Clerk, after payment of any required fee at the County Clerk’s Office.
 - b. Generally, an Order to Show Cause filed via NYSCEF is reviewed by the Court by the business day after filing. If a submission requires more immediate attention, please contact the Law Clerk or Secretary after the Order to Show Cause is filed. All motions shall be made returnable before the Court on any Wednesday the Court is in session at 9:30 a.m. and shall include a proposed order of relief.
 - c. When an Order to Show Cause is to be presented to the Court which seeks temporary injunctive relief, including but not limited to a stay or a temporary restraining order, counsel for the moving party or any self-represented party shall demonstrate compliance with §202.7 (f) of the Uniform Rules for the New York State Trial Courts, regarding notice to affected parties.
 - d. If the Court signs an Order to Show Cause, a copy of it will be uploaded to NYSCEF. If it is not an e-file case or the moving party has not opted into NYSCEF, the Court

will fax or e-mail the signed Order to Show Cause.

- e. Unless otherwise advised by the Court, all motions are by submission only. Any proposed Order to Show Cause should include a space for the Court to set forth a briefing schedule for opposition papers, reply papers, and, if necessary, an appearance date. A request for oral argument may be made on the first page of the Notice of Motion, Order to Show Cause or answering papers. The Court will determine whether oral argument is appropriate. If the Court requests appearances or oral argument in connection with a motion, or Order to Show Cause, the parties will be notified in advance of the date and time for their appearance. Otherwise, no appearance is required, and no oral argument will be heard on the return date of the motion.

- C. All papers in connection with a motion shall be received by the Court prior to, or on the return date of the motion. If opposition, cross-moving, or reply papers are not submitted by the return date, the opportunity to do so will be lost, unless an adjournment is arranged prior to the return date or Court permission is obtained.

- D. The Court does not permit litigation by way of letter or any other correspondence, be it by way of e-mail, fax, personal delivery, etc., from counsel or any party acting *pro se*. Correspondence addressing anything other than procedural issues, such as, but not limited to, adjournments, will not be considered by the Court absent prior Court approval. Any unauthorized communications will be disregarded, will not be acted upon, and will not be considered. Counsel receiving an unauthorized communication need not, and shall not, reply. Violations are subject to the imposition of sanctions, particularly in the case of repeat offenders.

- E. All communications regarding motions, including requests for adjournments and questions concerning the status of motions, must be directed to the Part Clerks. If the Part Clerks are unavailable, the communication regarding a motion may be directed to the Law Clerk or the Secretary.

- F. All motion papers submitted to the Court, including orders to show cause, must be legible, and should be typewritten, with all exhibits labeled with tab markings. Motion papers and all correspondence must indicate the index number assigned to the action.

- G. In the event the parties settle a motion or part of a motion before the motion return date or a decision has been rendered, they shall immediately inform the Court in writing by emailing our Part Clerks, Law Clerk and Secretary.

- H. Motion Decisions and Orders:
 - 1. Written Decisions: In most instances, a written decision and order will be issued by the Court following submission of the motion. The decision and order, with supporting papers, will be e-filed through NYSCEF. If a party opts-out from participation in e-filing, a copy of the order shall be faxed or mailed to that party.

2. Bench Decisions: In certain instances, the Court will render a decision from the bench. Any party seeking a written order shall submit to the Court a proposed order supported by a copy of the transcript of the proceedings at which the bench decision was rendered. The signed order will be e-filed by the Court through NYSCEF, and fax or mailed to any party that opts-out from participating in e-filing.

I. Adjournments:

- a. A request to adjourn a motion must be made in writing. If it is an e-filed case, the requested must be filed in NYSCEF. If it is not an e-filed case, the request must be transmitted by email to the Part Clerks, or in their absence, the Principal Law Clerk, prior to the return date of the motion, copied to all counsel and self-represented parties.
- b. Submission of Late Papers: To protect movants against any potential prejudice resulting from the submission of late opposition papers or cross-motions, the Court may sua sponte adjourn for one-week cases in which appropriate time has not been given to opposing parties. Parties seeking an adjournment must follow the direction delineated below in order to adjourn a motion.
- c. Adjournments by Stipulation: A party seeking an adjournment must contact all other parties in an effort to obtain consent and demonstrate such efforts to the Court. No more than three adjournments for a total of 60 days are allowed except with the Court's permission (see § 202.8 [e] [1] of the Uniform Rules for the New York State Trial Courts), which shall be given by means of a so-ordered stipulation signed by all parties in the action or proceeding.
- d. Adjournments by Affidavit/Affirmation of Consent: If all parties consent to an adjournment as allowed by these rules, but a written stipulation cannot be obtained in time for submission, the applicant for the adjournment on consent may submit an affidavit or affirmation reciting that such consent was obtained. The affidavit/affirmation of consent must state the reason for the adjournment request, how consent was obtained from all parties, when it was obtained, and the name of each attorney or self-represented party who gave oral consent. The affidavit/affirmation must be received by the Court on or before the scheduled submission date.
- e. Adjournments Without Consent: If consent for an adjournment cannot be obtained from all parties prior to the return date, a party may: (1) make a letter application to chambers for an adjournment (by email to Part Clerks or through NYSCEF), on notice to all other parties having appeared in the action or proceeding, or (2) appear on the return date of a motion at 9:30 a.m. and state on the record before the Court the reason for the requested adjournment and a description of the efforts made to obtain such consent, including the date when contact was initiated or attempted, the means

used, and the person contacted (if consent was refused) or for whom a message was left (if no contact was made). No motion shall be considered adjourned unless the Part Clerk or Principal Law Clerk has conveyed the Court's approval of an adjournment.

IV. **Preliminary Conference**

- A. Upon a case assignment to this part, the Court will conduct a virtual preliminary conference to address the scheduling of trial and further court appearances and deadlines. At this virtual conference, the Court will set a schedule for *motions in limine* which will be fully submitted one month prior to the Pre-Trial Conference. At the conclusion of that conference, the Court will issue a trial scheduling order pursuant to §125.1 of the Rules of the Chief Administrative Judge.

V. **Settlement Conference**

- B. The court encourages, and is available to facilitate, the settlement of all matters. Accordingly, in any case assigned to this Part, where all parties consent, they may contact chambers to request a conference for the purpose of resolving motions pending before this Court or settling the entire matter. If the parties agree to attend a Court conference, this shall not serve to delay the submission of any motion, nor as a stay of the proceedings.
- C. Counsel attending the Settlement Conference must be fully familiar with the action and authorized to discuss all factual and legal issues presented by the litigation, settlement demands or offers, witness scheduling, and trial procedure – including, for example, whether any party or witness will require a translator or accommodation.
- D. Counsel must also be authorized to enter into binding settlements on terms agreeable to the parties and to the Court. Counselors are advised that, in an effort to foster open settlement discussions, the Court may meet with counsel separately during the discussions. Counselors are presumed to have consented to the Court doing so unless an objection is stated.

VI. **Pre-Trial Conference**

- A. A Pre-Trial Conference with all counsel and self-represented parties will be conducted before the commencement of jury selection or the non-jury trial. Approximately **one month prior** to the Pre-Trial Conference, on the date specified by the Court, counsel and self-represented parties must provide the

Court and opposing counsel or self-represented parties with a trial notebook(s)² containing the following:

1. A copy of all prior decisions or orders on motions issued in the case.
2. A list of all witnesses who may be called at trial, including any potential rebuttal witnesses, as well as all expert witnesses and their expert reports, if any exist.
3. A copy of each exhibit the party expects to use at trial, including any part of a transcript of an examination before trial which may be used, with an index thereto indicating which exhibits are stipulated for admission into evidence or are marked only for identification.
4. Trial memorandum on special points of law with all cases cited in a minimum of a 12-point font.
5. In all jury trials, a complete list of requests to charge. If a requested charge is drawn from the current Patter Jury Instructions (PJI), only the PJI number and title need be submitted. Where deviation from, or additions to, the PJI are requested, the full text of such request must be submitted in writing highlighting the deviations, together with any supporting legal precedents.
6. Proposed Verdict Sheet. Counsel for the parties and any self-represented parties shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all other parties. The verdict sheet shall be in a final typewritten form, which may be given to the jury. In addition, the proposed verdict sheet(s) shall be submitted by email to the Principal Law Clerk, Michelle A. Calvi, at macalvi@nycourts.gov.

B. At the Pre-Trial conference the Court will discuss issues raised in the parties' written submissions. Additionally, the parties should be prepared with the following:

1. Marked pleadings and bills of particulars.
2. A written stipulation governing all facts that are not in dispute.
3. A statement of the relief requested.
4. A statement of the estimated length of trial.

IV. Trial Practice Rules

- A. **Trial Preparation:** Prior to the commencement of the trial or hearing, counsel shall ascertain the availability of all witnesses and subpoenaed documents. Counsel for any party or any self-represented party who has issued subpoenas for the production of records shall request that the Part Clerk requisition all subpoenaed documents from the file room.

² Each trial notebook binder shall be a maximum of two inches.

- B. Conference: The court will conduct a conference prior to trial to discuss preliminary matters. At this conference, all counsel and self-represented parties shall be prepared to discuss scheduling, as well as the number of witnesses to be called at trial, any anticipated issues regarding attendance at trial of any party, attorney, or witness, and any other practical problems the Court should consider in scheduling. In addition, the Court will address any outstanding legal issues and motions.
- C. Interpreters and Special Services: Attorneys and any self-represented party must immediately advise the Part Clerks at the time of scheduling trial/hearing/inquest if the services of a foreign language interpreter are required for any party or witness or if any special services are requested for any part or witness who is hearing-impaired or who has any other disability. It is incumbent upon the requesting party to keep the Court informed of any changes to this request.
- D. Trial Aids: Attorneys and self-represented parties must supply all audio, visual or other trial aids, such as screens/monitors, easels, blackboards, shadow boxes, etc. unless advised otherwise by the Court.
- E. Pleadings and Submissions Due Immediately Upon Appearance: Immediately upon being assigned to this Part for a trial or hearing, counsel for each party and any self-represented party shall report to the Part Clerks and in his / her absence, the Law Clerk and must provide the Court with all marked pleadings and exhibits.
- F. Marking of Exhibits: After filing the exhibit with the Court, counsel and any self-represented party shall meet with the assigned Official Stenographer to pre-mark all exhibits for identification. Any exhibits whose admission is agreed upon by the parties shall be pre-marked for admission.
- G. Copies of Transcripts: If any part of a transcript of an examination before trial or other recorded proceeding will be read as evidence-in-chief, the proponent of the transcript shall provide a complete copy of it to the Court, with citations to the page and line numbers for all portions to be read.
- H. Addressing the Court: If it is believed that argument on an objection is necessary, to avoid any inappropriate influence on the jury, any counsel or self-represented party shall ask permission to approach the bench for a sidebar conference to discuss the matter. If requested, any counsel or self-represented party will be given the opportunity to make a full record of his or her position.
- I. Summation Exhibits: Any counsel or self-represented party who intends during summation to use any type of demonstrative exhibit not marked into evidence must advise the Court and all other counsel and self-represented parties of that intention at the pre-charge conference and provide a copy of such exhibit to the court, all counsel and to the self-represented parties. Failure to comply with this

rule may result in an order precluding use of the exhibit during summation.

- J. Check-in: At the start of each day of trial, all counsel and self-represented parties shall check in with the Part Clerk so that she will be aware of your presence.
- K. Food and Drinks: Absent the Court's permission obtained in advance, no counsel or party shall bring any beverage or food into the courtroom, except bottled water.
- L. Post-Trial Submissions: If applicable, in accordance with the schedule set by the Court at the conclusion of a trial, the parties must jointly submit a transcript of the proceeding and each party must prepare and submit post-trial memorandum.
- M. Trial Conclusion: At the conclusion of trial, counsel and any self-represented party are expected to e-file any exhibits admitted into evidence and any other document required to complete the record for purposes of any appeal. In addition, all materials used during the trial must be removed from the courtroom within 48 hours of the conclusion of the trial. All materials not timely removed will be discarded.

V. Virtual Proceeding Rules

- A. General: All in person court rules apply equally to virtual court proceedings.
- B. Recordings: No party or attorney may record any virtual court proceeding, including video, photographs and /or screenshots.
- C. Third Party Presence: No individual may be physically present in the same room as a party or witness, except for counsel.
- D. Third Party Communication: No party or witness may communicate with anyone in any manner while under oath during a virtual court proceeding.
- E. Attorney-Client Communication: Prior to engaging in any private communication with his / her client during a virtual court proceeding, counsel must first announce an intention to do so.
- F. Visibility: A witness and counsel must be visible on screen, while under oath during a virtual court proceeding, whether together in the same room or in separate physical locations.
- G. Electronic Devices: All electronic devices that are not being used to communicate with the Court must be placed on mute.
- H. Messaging: Counsel, parties and witnesses must be aware that all Teams messaging is public and persistent in that it is never erased.

VI. Artificial Intelligence

- A. Counsel and any self-represented party must disclose to the court if any portion of their written submission to the Court was generated by any form of artificial intelligence and if so, what portion thereof utilized this form of technology.