

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

111 Dr. Martin Luther King, Jr. Blvd.
White Plains, New York 10601

**INDIVIDUAL PART RULES OF
HON. NANCY QUINN KOBA, J.S.C.**

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Counsel are expected to be familiar with the Uniform Civil Rules for the New York State Trial Courts, 22 NYCRR § 202.1, et seq., and the Westchester Supreme Court [Civil Case Management Rules](#), which became effective December 6, 2021 (“CCM Rules”), and to comply therewith. The Uniform Civil Rules and the CCM Rules control to the extent the same have not been superseded and/or supplemented by these Part Rules.

Counsel are also expected to be familiar with these Part Rules.

I. Communications with the Court

A. Written Correspondence

No written correspondence may be sent to the Court without prior permission except correspondence regarding the scheduling of appearances and requests for adjournments addressed to the Part Clerk. **Written correspondence sent by letter, fax or any other means, without permission, will not be read and will be discarded.**

All correspondence sent to the Court with its permission 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) simultaneously with transmittal to the Court. All correspondence shall be concise and state the relief sought or action requested to be taken by the Court.

The Court shall not be copied on correspondence between Counsel and/or self-represented parties.

B. Telephone Calls

Except as set forth below (*see* Section III.F. Discovery Disputes), telephone calls to Chambers are permitted only in situations requiring immediate attention that cannot otherwise be obtained by correspondence.

Counsel or self-represented litigants may not contact the Court without all opposing Counsel on the telephone, except to schedule a conference call.

C. Fax transmissions

Unless specifically approved by the Court in advance in a particular case, the Court does not accept legal papers of any kind by fax transmission.

II. Calendar Call & Conferences

A. General Rules

The Court's calendar will be called at 9:30 a.m. daily unless individual cases are scheduled for a virtual appearance and a Microsoft Teams invitation is sent to all parties.

Counsel are directed to forward any Microsoft Teams link to any and all persons entitled to notice. **All participants are to conduct a test 24 Hours before the scheduled appearance.** Instructions on how to download Microsoft Teams and conduct a test on your machine can be found at: <https://portal.nycourts.gov/knowledgebase/article/KA-01071/en-us>. All participants are reminded that the RECORDING, VIDEO OR AUDIO, OR TAKING PHOTOS OR SCREENSHOTS, BROADCASTING, OR STREAMING OF COURT PROCEEDINGS IS PROHIBITED (22 NYCRR Parts 29, 131).

Counsel and self-represented litigants are expected to appear for all Court appearances on time. If Counsel or a party is unable to appear on time due to unforeseen circumstances (delays due to inclement weather or road closures, for example), Counsel shall contact opposing Counsel and shall advise the Part Clerk or Court's staff by telephone as soon as possible.

Counsel and self-represented litigants who have a scheduling conflict with this Part and another court must contact the Part Clerk prior to the date of the appearance so that the conflict can be resolved.

B. Who Must Appear

Only Counsel or self-represented litigants who are fully familiar with a case and authorized to enter into binding agreements on all aspects of the case are to appear for conferences.

Where a party is being indemnified by an insurer, appearing Counsel must be able to advise the Court of the applicable policy limits afforded to the Defendant as well as the name, claim number and phone number of the adjuster assigned to the matter.

Represented parties need not appear for conferences unless directed to do so by the Court.

C. Adjournment of Conferences

A request to adjourn a conference must be made in writing **by email only to the Part Clerk** at least forty-eight (48) hours in advance of the scheduled conference.

All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) whether the opposing party(ies) consent(s) or object(s) to the application; and 3) the length of the adjournment sought or, if on consent, a date all parties are available. **All such communications must be copied to all Counsel and self-represented litigants.**

Where the adjournment sought is not on consent, the requesting party must briefly set forth why the adjournment is necessary, the length of the adjournment and the reason offered by the non-consenting party for his/her lack of consent. Opposing Counsel or self-represented litigant may succinctly provide their reasons for objecting to the requested adjournment if opposing Counsel believes that his/her position has been stated incorrectly.

The Court will advise the requesting party by reply email (with copies to all parties copied on the originating email) whether the requested adjournment has been granted. **Requests that are not copied to all other parties will not be acted on.** The parties should not assume that the request for an adjournment (even if consented to) has been granted unless specifically advised by the Court.

D. Preliminary Conference

All requests for a Preliminary Conference shall be made in accordance with 22 NYCRR § 202.12 (a).

The Preliminary Conference will be conducted in accordance with 22 NYCRR § 202.12 (c) and Section III (Preliminary Conference Part Rules) of the CCM Rules. In medical, dental and podiatric malpractice actions, Counsel are also referred to 22 NYCRR § 202.56 (b).

Counsel shall consult regarding the matters to be addressed at the Preliminary Conference before the virtual Preliminary Conference as required by 22 NYCRR § 202.11,

and shall make a good faith effort to reach agreement in advance of the conference.

At the Preliminary Conference, the Court will set specific dates for completion of various items of discovery, the date by which all disclosure must be completed and a date for a Compliance Conference. All Counsel and self-represented litigants are expected to abide by and comply with the Court's discovery schedule and deadlines.

No modifications of the dates set by the Court are permitted except by Order of the Court. A party seeking to modify the dates set by the Court must contact the Part Clerk as soon as the basis for the request to modify arises to request a conference. Failure to contact the court may result in waiver of discovery or other action by the Court.

E. Compliance Conference

The Court will conduct a Compliance Conference on the date set forth in the Preliminary Conference Order. At the Compliance Conference, the Court will ensure that discovery proceeded as scheduled. The Court may conduct a settlement conference at this time. Counsel must be fully familiar with the action as well as all settlement discussions that have previously taken place so that meaningful discussions can be held.

Compliance Conferences will be conducted in accordance with section III, subdivision F of the CCM Rules. **Counsel shall consult regarding the matters to be addressed at the Compliance Conference before the virtual Compliance Conference as required by 22 NYCRR § 202.11 and shall make a good faith effort to reach agreement in advance of the conference.**

At least 72 hours before any scheduled compliance conference, counsel shall submit a joint email to the Part Clerk setting forth the date of their consultation, discovery issues resolved per their agreement, proposed dates for completing the outstanding discovery and all issues that could not be resolved by agreement of the parties to be discussed at the conference.

If the parties routinely fail to consult prior to the conference or fail to submit the joint email regarding discovery 72 hours before the conference or fail to comply with the prior orders of the Court, the conference will be rescheduled for an in person appearance before the court on either the first or the third Friday of the month at 2:00 p.m. At that conference, the Court will address the issues of noncompliance, preclusion and/or waiver in the absence of good cause for the failure to comply with the Orders of this Court (*see* 22 NYCRR § 202.20-e [a]) or these Part Rules.

If the matter is ready for trial, the Court will direct that a Note of Issue be filed. Counsel shall not file a Note of Issue until directed by the Court.

F. Discovery Disputes

Counsel (or self-represented litigant) who believes that discovery is not being conducted

in accordance with the Court's Order is to confer, in good faith, as required by Court Rule § 202.7, regarding the alleged noncompliance with the allegedly noncompliant Counsel or self-represented litigant.

No motion concerning a discovery dispute shall be made until a pre-motion conference has been requested and held in accordance with 22 NYCRR § 202.20-f and section IV, subdivision C of the CCM Rules.

Counsel are expected to abide by the Uniform Rules for the Conduct of Depositions, 22 NYCRR § 221.1, *et seq.*, in particular sections 221.2 and 202.20-b Limitations on Depositions.

G. Trial Readiness Conference and Motions for Summary Judgment

At the Trial Readiness Conference, the Court will expect that all discovery is completed so that the Court may certify that the case is ready for trial through the issuance of a Trial Readiness Order, which will also direct that Plaintiff serve and file the note of issue within twenty (20) days of the issuance of the Trial Readiness Order. At the Trial Readiness Conference, Counsel must be prepared to address whether they wish to file summary judgment motions.

If a party wishes to file a motion for summary judgment, the same must be made in accordance with section IV, subdivision F of the CCM Rules and 22 NYCRR § 202.8-g. There shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried (*see* 22 NYCRR § 202.8-g [a]). The papers opposing the motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party and, if necessary, additional paragraphs containing a separate short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried (22 NYCRR § 202.8-g [b]).

If the moving party fails to provide a statement of undisputed facts as required, the Court may deny the motion without prejudice to renewal upon compliance (*see* 22 NYCRR § 202.8-g [e]). If the opponent of a motion for summary judgment fails to provide a counter statement of undisputed facts as required, the Court may, after notice to the opponent and an opportunity to cure the failure within ten (10) days of the notice, deem the assertions contained in the proponent's statement to be admitted for purposes of the motion (*id.*).

H. Settlement Conference

Any party may request a settlement conference with the Court at any time. In addition to the attendance of Counsel with authority to settle, the Court requires the attendance of the parties to the action unless otherwise directed by the Court. Counsel are advised that, in an effort to foster open settlement discussions, the Court may meet with one side or the other apart from opposing Counsel. Counsel are presumed to have consented to the Court doing so unless an objection is stated.

At least forty-eight (48) hours before the settlement conference, each party must submit to the Court the completed Settlement Conference Form attached to the Court Notice scheduling the conference.

III. Motions & Orders to Show Cause (Temporary Restraining Orders)

A. General Rules

1. All Motions shall be made, and any adjournments requested, in accordance with section IV (Motions and Motion Support Office) of the CCM Rules. All Motions shall be returnable on Thursdays and are on submission only.

2. Proposed Orders to Show Causes shall be processed by this Part. Except in e-filed cases, proposed Orders to Show Cause submitted for consideration by the Court must include an email address (or fax number if the sender does not have a valid email address) to permit a conformed copy of the signed Order to be sent to the movant.

3. The length of all papers submitted regarding Orders to Show Cause shall conform with 22 NYCRR § 202.8-b.

4. Oral argument is not required on any Order to Show Cause unless directed by the Court. Parties seeking oral argument of an Order to Show Cause may request that oral argument be heard by stating "Oral Argument Requested" above the Index Number on the first page of the papers submitted. If the Court grants the request for oral argument, the Court staff will inform the attorney for the party who requested oral argument of the date and time for argument. It is the responsibility of that attorney to inform all other attorneys of the date and time set.

5. Plaintiffs shall designate exhibits by number, and Defendants shall designate exhibits by letter. Exhibit lettering or numbering should not begin anew for subsequent papers submitted by the same party.

6. Multiple documents shall not be grouped together under a single exhibit. **Each exhibit shall contain only a single document separately uploaded to NYSCEF.** Exhibits shall be specifically referenced in the papers or they will not be considered.

7. All documents shall be redacted in accordance with GBL § 399-dd (6) regarding the redaction of social security numbers, and the Uniform Civil Rules of the Supreme and County Courts, 22 NYCRR § 202.5 (e), regarding the redaction of confidential personal information, including, but not limited to, an infant's full name. Failure to comply with these requirements shall result in the issuance of a sealing order, and the parties shall be required to resubmit the documents with appropriate redactions.

8. Deposition/Examination Before Trial transcripts included as exhibits must be single-sided only. Parties may not submit manuscript transcripts.

9. In non-e-filed cases, all Counsel (and self-represented parties) shall submit a self-

addressed stamped envelope with their moving or opposition papers to allow a copy of the Decision and/or Order to be mailed to the party.

B. Adjournments of Orders to Show Cause

A request to adjourn an Order to Show Cause must be made in writing and transmitted **by email only to the Part Clerk** prior to the return date of the same, copied to all Counsel and self-represented parties.

All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) whether the opposing party(ies) consent(s) or object(s) to the application; 3) the length of the adjournment sought; and 4) the number of prior requests for adjournment and the dates previously set.

No more than three (3) adjournments of any Order to Show Cause or cross-motion will be permitted. The total period of time that an Order to Show Cause may be adjourned shall not exceed sixty (60) days.

Where the adjournment sought is not on consent, the requesting party should briefly set forth why the adjournment is necessary, the length of the adjournment sought, and the reason offered by the non-consenting party for his/her lack of consent. Opposing Counsel or self-represented party may succinctly provide their reasons for objecting to the requested adjournment if opposing Counsel believes their position has been stated incorrectly.

The Court will advise the requesting party by reply email (with copies to all parties copied on the originating email) whether the requested adjournment has been granted and, if so, the new return date for the Order to Show Cause. **Requests that are not copied to all other parties will not be acted on.** The parties should not assume that the request for an adjournment (even if consented to) has been granted unless specifically advised by the Court.

If a request for an adjournment is approved by the Court, it must be confirmed by a signed Stipulation of all Counsel.

IV. Judgments, Decisions and Orders

Where the Court issues a Bench Decision and a party desires a written Decision or Order, the party may submit a proposed Order to the Court together with the transcript of the proceedings at which the Bench Decision was rendered to be "So Ordered". Proposed Orders or judgments are not to be submitted by fax.

Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice will not be signed unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with 22 NYCRR §202.48 has been included.

V. Trials and Hearings

A. Subpoenas

All subpoenas seeking the production of medical (or other) records subject to the HIPAA Rules shall attach a duly executed authorization permitting the release of such records.

B. Interpreters

In the event a translator or interpreter is required at trial, Counsel shall notify the Part Clerk immediately upon being apprised of the assignment of the trial to this Part so that timely and appropriate arrangements can be made.

C. Commencement of Trial

On the date of commencement of the Trial, **the parties shall submit:** 1) pre-trial memoranda of law compliant with 22 NYCRR § 202.20-h [a] (both in hard copy and word document emailed to the Part Clerk); 2) a copy of all expert reports; 3) for jury trials, proposed jury charges and special verdict sheets (both in hard copy and word document emailed to the Part Clerk);* 4) a joint stipulation regarding undisputed material facts, issues/ claims that have been resolved and/or withdrawn and issues/claims remaining to be tried; 5) witness lists compliant with 22 NYCRR § 202.37; 6) exhibit books compliant with 22 NYCRR § 202.20-h (b); 7) pre-marked exhibits compliant with 22 NYCRR § 202.34; and 8) all Motions *In Limine*.

*With regard to proposed jury charges, unless a deviation from the pattern charge is sought, only the PJI numbers and topics need be submitted. If a deviation is sought, Counsel must submit the full text of the proposed charge, together with a legal memorandum supported by case law.

VI. Settled and Discontinued Cases

In addition to complying with the provisions of CCM Rule V. B., counsel must notify the Part Clerk by email of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. A copy of the signed Stipulation of Discontinuance which has been (or will be) submitted to the County Clerk shall be submitted to the Part Clerk so that the matter may be marked disposed.