

**JUSTICE ROBERT M. BERLINER**  
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New City, NY 10956  
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Principal Law Clerk: Christopher J. Exias, Esq.  
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## **PART RULES**

### **MOTIONS**

**General Information.** Motions shall be made returnable at the Rockland County Courthouse on Fridays at 9:30 a.m. Motion papers are to be submitted to the Office of the Supreme Court Clerk (2<sup>nd</sup> Floor). The provisions of the Civil Practice Law and Rules will apply. Appearances on motions are not required nor are courtesy copies. Oral argument may be requested by a written communication to the Court setting forth the reason(s) why oral argument is necessary. If the Court, in its discretion, allows such argument, movant's attorney will be so advised and will be required to notify all parties or their counsel.

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. Telephone and facsimile numbers shall be included on all papers submitted to the Court. Self-addressed, stamped envelopes must be provided by all parties with all motions.

Prior to making any discovery-related motion, movant shall notify the Court in writing, with a copy to all parties, setting forth the relief sought and the basis for that relief. The Court may schedule a conference call with counsel or a court conference date. This procedure does not preclude the moving party from making such motion, but provides the Court with an opportunity to resolve the dispute giving rise to the motion without the need for a formal written application. Failing resolution of the dispute or if the Court, in its discretion, does not schedule the call or conference within ten days of mailing, then the party seeking the relief may proceed with the motion.

Sur-replies will not be considered unless the Court otherwise directs. If new issues are raised in the reply or if there has been a change in the law while the motion is pending, counsel are to advise chambers in writing of the request to submit additional affidavits or memoranda. Other papers, including letters which are sent after the submission of the

motion, will not be considered.

**Discovery Motions:** Counsel must consult with one another in a good faith effort to resolve all disclosure disputes. See Uniform Rule 202.7. If counsel are unable to resolve a disclosure dispute, the procedures previously set forth must be followed before any formal motion may be made.

**Summary Judgment Motions:** All motions for summary judgment must be made within sixty (60) days of the filing of the Note of Issue unless otherwise ordered by the Court (the 'motion period') or the motion will not be entertained. Counsel may seek an extension of the motion period through the submission of a letter to the Court with a copy to opposing counsel setting forth good cause why additional time is needed. The Court will then determine whether an extension of the motion period is warranted.

**Motions for temporary injunctive relief, including stays and temporary restraining orders:** If a party's motion papers establish, *prima facie*, that "...immediate and irreparable injury, loss or damage will result" unless the other party is restrained before the hearing and determination of a motion for a preliminary injunction, the matter will then be scheduled in accordance with 22 NYCRR 202.7(f) unless the moving party demonstrates there will be significant prejudice by the giving of notice. Movant shall furnish a copy of a proposed Order to Show Cause to the Court and the Court may schedule oral argument limited to the issuance of temporary injunctive relief sought therein. The Court will advise Movant of the time and date of oral argument and direct that notice of same be transmitted to the other parties or their counsel.

### **Motion Adjournments**

a) On Consent - The clerk of the part is to be advised by letter that a motion is adjourned on consent. A copy of the letter is to be sent to all parties and transmitted to the Court via facsimile on non-NYSCEF cases and via NYSCEF on cases subject to electronic filing. No more than **three (3)** adjournments for an aggregate period of **sixty (60) days** will be granted without prior permission of the Court.

b) Opposed - Absent agreement by the parties, a request by any party for an adjournment shall be submitted in writing via facsimile in non-NYSCEF cases and via NYSCEF in cases subject to electronic filing. Such request shall be made upon notice to the other party to the Part Clerk on or before the return date. The Court will notify the requesting party whether the adjournment has been granted via facsimile or phone in non-NYSCEF cases and via Court Notice on NYSCEF in cases subject to electronic filing.

## E-FILING

**E-Filing Rules and Protocol:** All parties should familiarize themselves with the statewide [E-Filing Rules](http://www.nycourts.gov/efile) (Uniform Rule §§ 202.5-b and 202.5-bb – available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)) and the Rockland 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](mailto:efile@courts.state.ny.us)

Specific questions relating to local procedures should be addressed to the Chief Clerk's Office at 845-483-8310.

**Electronic Filing:** All Supreme Court actions or proceedings subject to either voluntary or mandatory E-Filing in Judge Berliner's part 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.

**Working Copies:** This Part requires working copies for all motion papers and letters to the Court other than motion adjournment requests. See Uniform Rule § 202.5-b(d)(4). Working copies shall be delivered to the Rockland County Chief Clerk's Office no later than 5:00 p.m. on the first business day following the electronic filing of the document on the NYSCEF site

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 Rockland County Protocol. Working copies without the Confirmation Notice will not be accepted.

**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).

## CONFERENCES

**Preliminary Conference** - Appearances at the Preliminary Conference are mandatory and counsel must be prepared to discuss the facts of the case, prepare a discovery schedule and, if appropriate, discuss settlement. In Matrimonial Cases the provisions of 22 NYCRR 202.16(f) shall also apply. The attorneys shall advise the Court of any outstanding motions.

**Pre-Trial Conference** - All discovery must be completed and the Note of Issue and Certificate of Readiness must be filed prior to the conference. Counsel must be prepared to discuss settlement at the conference.

## **TRIALS**

Prior to the commencement of a trial, counsel shall provide the Court with marked pleadings. Attorneys are to pre-mark their exhibits and provide the Court and the court reporter with an exhibit list. Only those exhibits received in evidence will be marked by the reporter.

Requests to charge shall be submitted to the Court immediately preceding trial. The charge will be drawn from *Pattern Jury instructions* (PJI). Only the PJI numbers along with the PJI heading need be submitted. If counsel seeks a deviation from the pattern charge or additions to it, the full text of such requests must be submitted, together with any supporting legal precedents. All submissions must be served upon opposing counsel.

Verdict sheet - Counsel shall *jointly* prepare a proposed verdict sheet. The verdict sheet is to be typed and in final form for presentation to the jury. If agreement cannot be reached, then each party shall present a proposed verdict sheet.

## **GENERAL**

Counsel who appear must be 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 sufficient material to allow meaningful discussion of unresolved issues to each court appearance.

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.

If a conformed copy of an order or judgment is requested, a stamped self-addressed envelope must be included with a copy of the order or judgment to be conformed.

No facsimile transmissions to the Court shall exceed five pages in length.

Copies of correspondence between parties are not to be sent to the Court unless specifically requested by the Court.

These Part Rules are subject to revision.