

**HONORABLE ROBERT S. ONDROVIC, J.S.C.**

New York State Supreme Court  
Westchester County Courthouse  
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White Plains, New York 10601  
Courtroom 1201

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**Part Rules**

*(Effective 1/3/2024)*

*These Rules are subject to change.*

**These Part Rules supplement and, where inconsistent with, supersede the Westchester Supreme Court Civil Case Management Rules and 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.**

**CERTIFICATION OF PAPERS:**

Every pleading, written motion and other paper served or filed in an action must be signed by an attorney pursuant to §130-1.1a of the Rules of the Chief Administrator of the Courts.

**COMMUNICATIONS WITH THE COURT:**

**A. Correspondence**

All correspondence to the Court must be sent ONLY via NYSCEF, unless otherwise directed by the Court. DO NOT send copies of e-filed correspondence to the Court via e-mail or regular mail. DO NOT e-file correspondence between and among counsel and/or self-represented litigants, and DO NOT send a copy to the Court.

Correspondence must bear the full Title and Index Number of the action. It shall be concise and state the relief sought or the action requested to be taken by the Court.

**B. Telephone Calls**

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

### **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.

## **TRIALS/HEARINGS (NON-JURY TRIALS):**

### **1. Evidence Rules**

- (a) A Virtual Evidence Courtroom will be set up in NYSCEF for each Trial/Hearing.
- (b) All Exhibits are to be uploaded no later than 10 days prior to the Trial/Hearing.
- (c) Any objections to any Exhibits are to be uploaded no later than 7 days prior to the Trial/Hearing.
- (d) Evidentiary rulings will be made prior to the start of the Trial/Hearing based upon filed objections.
- (e) Instructions for uploading evidence may be found here: [EvidenceSubmission.pdf \(state.ny.us\)](#)

### **2. Subpoenas**

Counsel are referred to CPLR §§ 2306 and 2307 for guidance as to subpoenas directed to municipal entities such as libraries, municipal corporations and their departments and bureaus. The Court's issuance of a subpoena to such entities does not constitute a ruling as to the admissibility of the subpoenaed records. Counsel are also reminded that they are designated agents for service of subpoenas on their clients under CPLR § 2303-a.

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.

### **3. Interpreters**

In the event a translator or interpreter is required at trial, counsel shall notify the Part Clerk no later than the Settlement Conference so that timely and appropriate arrangements can be made.

### **4. Personal Injury / Bifurcation**

Trials of personal injury actions, except those involving claims of wrongful death or medical/dental malpractice, will be bifurcated in accordance with 22 NYCRR § 202.42.

### **5. Reading of Exhibits**

If counsel intends to use/read from any anticipated exhibit or item of demonstrative

evidence during Opening Statements, counsel is to advise the Court of such intention prior to commencement of jury selection.

## **6. Objections**

Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating “Objection” and no more than one word or two words as to the basis for the objection. Speaking Objections are not to be made. If the Court requires further explanation of the Objection, the Court will ask for further explanation or invite counsel to approach at side bar.

## **APPEARANCES:**

- (a) Within ten (10) days of written notification of this Part’s assignment to a case, or written notification of a Preliminary Conference, whichever shall first occur, each attorney shall file a record of appearance with chambers. The record of appearance shall include the attorney’s name, firm affiliation, email address, mailing address, telephone and facsimile number as well as the party represented. The record of appearance shall also contain a written acknowledgment that counsel is familiar with these Part Rules.
- (b) Pursuant to §130-2.1 of the Rules of the Chief Administrator of the Courts, the Court may impose financial sanctions and award costs and reasonable attorney’s fees against any attorney who, without good cause, fails to appear at a time and place scheduled for an appearance in any action or proceeding.
- (c) Pursuant to §202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party in appearing at a scheduled call of a calendar or at any conference, the Court may grant judgment by default against the non-appearing party.
- (d) At all scheduled appearances and conferences before the Court, only an attorney thoroughly familiar with the action and authorized to act on behalf of a party shall appear.
- (e) 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

## **ADJOURNMENTS:**

- (a) Adjournments of scheduled trials and hearings are not permitted except as provided in 22 NYCRR §125.1 and in accordance with the procedure set forth therein.
- (b) Adjournments of motions and conferences may be requested on consent of opposing counsel. After obtaining such consent, the requesting party must email and upload to NYSCEF the adjournment request to [ecurtin@nycourts.gov](mailto:ecurtin@nycourts.gov) and [gkrikori@nycourts.gov](mailto:gkrikori@nycourts.gov) to obtain a new date. A REQUEST TO ADJOURN A

CONFERENCE MUST BE EMAILED TO THIS COURT AND UPLOADED TO NYSCEF AT LEAST 36 HOURS IN ADVANCE OF THE SCHEDULED APPEARANCE, THEREAFTER THE PARTIES MUST APPEAR ON THE RETURN DATE TO REQUEST THE ADJOURNMENT. All adjournments must be confirmed in writing to the Court, by the requesting party, and a copy of the letter sent to all parties. No more than two adjournments shall be permitted on any matter unless good cause is shown upon written application made to and approved by the Court. WHEN REQUESTING AN ADJOURNMENT OF A CONFERENCE OR MOTION, THE LETTER REQUEST SHALL INCLUDE THE CURRENT DATE OF ANY MOTION RETURNABLE OR ANY CONFERENCE SCHEDULED AND CONTACT INFORMATION FOR ALL PARTIES. THE REQUESTING PARTY SHALL NOTIFY ALL PARTIES OF THE ADJOURNED DATE.

**PRELIMINARY CONFERENCE:**

Upon the Court's receipt of the Preliminary Conference Stipulation, the Court will review it and modify any dates which the Court deems to be inappropriate. The Court will "So Order" the stipulation, as modified, and all counsel and self-represented litigants shall abide by and comply with the Court's discovery schedule and deadlines.

No modifications of the dates in the Preliminary Conference Order are permitted except by Order of the Court.

**COMPLIANCE CONFERENCE:**

**Parties who have a discovery dispute are NOT to wait until the Compliance Conference to bring such dispute or complaint about non-disclosure to the Court's attention.** Such parties shall comply with the procedures set forth below in Section F -- Discovery Disputes.

The Court will conduct a Compliance Conference after the date by which disclosure was to be completed as directed 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. See Section G infra.

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.

**DISCOVERY DISPUTES:**

Counsel (or self-represented litigant) who believes that discovery is not being conducted in accordance with the Court's Order is to discuss, in good faith, as required by Court Rule § 202.7, the claimed noncompliance with opposing counsel or self-represented litigant. A pro forma letter does not constitute a good faith effort. There must be actual substantive communication between

counsel, either telephonically or in writing, regarding the claimed failure to engage in discovery and the claimed noncompliance or reason for noncompliance.

**Exception:** Where an Order of Protection prohibits one party from contacting another party, the party who believes that discovery is not being complied with shall contact Chambers without contacting the opposing party. The parties are NOT to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court.

**The parties are NOT to make any motion concerning discovery.** If counsel cannot resolve the discovery issue between themselves after a good faith effort, the counsel who believes that discovery is not being conducted in accordance with the Court's Order is to contact the Court by letter to advise of the nature of the dispute and the efforts that have been made to attempt to resolve it. The Court will either resolve the issue by letter endorsed order or by scheduling a conference to address it.

Counsel are expected to abide by the Uniform Rules for the Conduct of Depositions, 22 NYCRR § 221.1, et seq., in particular section 221.2, which prohibits, except in certain instances, directing a witness not to answer a question. Rulings concerning disputed objections may be obtained by calling the Court from the deposition.

#### **SETTLEMENT CONFERENCE:**

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 for a physical challenge. Counsel must be authorized to enter into binding settlements on terms agreeable to the parties and to the Court.

In all cases 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. In a proper case, the Court may contact the claims adjuster by telephone or direct that the claims adjuster shall appear for a conference.

The Court will explore limitation of issues for trial (e.g., whether liability may be conceded, or certain claims or defenses withdrawn in an appropriate case).

Counsel are advised that, in an effort to foster open settlement discussions, the Court may meet with counsel separately during the discussions. Counsel are presumed to have consented to the Court doing so unless an objection is stated.

**MOTIONS:** *(PLEASE NOTE THAT EXCEPT FOR FORECLOSURE ACTIONS, EMERGENCIES AND SUMMARY JUDGMENT MOTIONS THERE SHALL BE NO MOTIONS ALLOWED WITHOUT A REQUEST FOR A PRE-MOTION CONFERENCE)*

- a. Parties may move by Notice of Motion or Order to Show Cause, depending on the exigency of the relief sought.

- b. Motions are returnable on Fridays. There will be no appearances unless specifically stated by the court.
- c. Original initiating motion papers should be uploaded to NYSCEF or, if a paper case, submitted directly to the County Clerk accompanied by an affidavit/affirmation of service and the required fees. DO NOT SUBMIT COURTESY COPIES. MOTION PAPERS MUST BE BOUND TOGETHER. THE COURT WILL NOT ACCEPT LOOSE MOTION PAPERS, AFFIDAVITS, AFFIRMATIONS OR EXHIBITS.
- d. Motion papers must be accompanied by proof of payment to the County Clerk of all required fees.
- e. All affirmations, affidavits and memoranda of law must contain numbered pages.
- f. All citations must be to an official state reporter, if available.
- g. All documents required to decide the application must be attached. It is not sufficient that documents may be on file with the Clerk of the Court.
- h. Motion papers are limited to Moving Papers, Opposing Papers, and Reply (except that reply papers are not permitted on Orders to Show Cause without advance permission). There is no Reply permitted to a Cross Motion.
- i. The Court does not accept sur-reply papers or correspondence on motions, nor any papers filed after the final submission date of the motion.
- j. On paper cases (i.e. actions not efiled on NYSCEF), motion papers, orders and judgments must be accompanied by a stamped, self-addressed envelope. Counsel submitting motions with a proposed order/judgment must submit an unattached copy of that proposed order/judgment. Counsel must provide an additional copy of any order and judgment submitted to conform to the original.
- k. All motions will be decided by submission and personal appearances on the return date are not required unless the Court specifically directs oral argument.
- l. Any motions seeking to exclude potential evidence shall be made in writing and shall be returnable at least 30 days in advance of trial.
- m. NO ADJOURNMENTS on a motion will be granted with a return date within thirty (30) days prior to the date of trial.
- n. 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.
- o. Motions brought pursuant to CPLR §§3211 or 3212 do not stay discovery.
- p. Counsel shall immediately notify the court when it becomes unnecessary to decide a motion.

### **TEMPORARY RESTRAINING ORDERS:**

Unless there are extremely unusual circumstances in which significant prejudice (set forth in detail in a supporting affidavit/affirmation) will result, opposing counsel are to be advised by telephone or fax at least 24 hours in advance of the date and time that any Order to Show Cause which includes a request for a Temporary Restraining Order is being presented to the Court.

In a true emergency, the Court, in its discretion, may dispense with the 24-hour notice requirement. If there has been no appearance by opposing counsel, the adverse party is to be

provided with notice of the intention to submit an Order to Show Cause as provided by 22 NYCRR § 202.7(f) and is to be advised that he/she has the right to be heard on the application.

### **DISCOVERY DISPUTES:**

In lieu of discovery motion practice, it is the policy of the Court to make itself and its staff available to resolve disputes related to pretrial discovery. Therefore, **no discovery motion is to be made by any party unless authorized or directed by the Court.** Instead, counsel should abide by the procedures set forth in Section III.F above to resolve discovery disputes.

### **SUMMARY JUDGMENT MOTIONS:**

Summary Judgment motions must be made within sixty (60) days of the filing of the Note of Issue.

If a Summary Judgment motion (or motion to dismiss) is made prior to the completion of discovery, the motion does not stay discovery. The parties are to continue to abide by any Order or Notice pertaining to discovery unless otherwise directed by the Court.

Unsigned deposition transcripts will not be considered on motions for Summary Judgment unless it is demonstrated that the transcript was forwarded to the deponent for his/her review and signature in compliance with CPLR § 3116(a). (*See Marmer v IF USA Express Inc.*, 73 AD3d 868 [2nd Dept 2010]).

### **JUDGMENTS, DECISIONS AND ORDERS:**

Where the Court issues a Bench Decision and a party desires a written Decision and 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.

All papers which are submitted for signature by the Court shall be identified on the signature page at least two lines below the signature line, so that the document being signed by the Court can be identified. Example: *Jones v Green Acres, LLC*, Index #, Type of Document.

### **E-FILING RULES AND PROTOCOLS:**

A. **Electronic Filing.** All parties should familiarize themselves with the statewide E-Filing Rules (*see* Uniform Rules §§ 202.5-b and 202.5-bb, available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)). 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).

All actions required to be filed electronically shall be filed through the New York State Courts E-Filing system (NYSCEF), including proposed orders, proposed judgments, stipulations and letters.

**MOTION IN LIMINE:**

Any applications addressing the preclusion of evidence, testimony or other trial related matters shall be brought to the attention of the court immediately upon counsel becoming aware of such matter to be addressed, it being the intent to avoid applications made on the eve of, or during trial of a matter. Failure to bring the matter before the court in a timely fashion may result in summary denial of such application.

**VIDEOTAPING:**

Requests for a continuance or rescheduling due to an expert's unavailability for testimony generally cannot be granted due to the large number of matters pending for trial. Counsel may use videotaping of experts when necessary.

**EXPERT TESTIMONY PRECLUSION:**

1. Any motion by a party to preclude or limit expert testimony under the expert disclosure part of this order or pursuant to CPLR 3101(d) must be made as soon as practicable.
2. Where a party's summary judgment motion is or will be based in whole or in part upon the granting of a motion directed at precluding or limiting expert testimony made pursuant to this part of this order, the motions' return date shall be the same.

**SETTLED AND DISCONTINUED CASES:**

Counsel shall immediately notify the Court of a case disposition.

Counsel shall promptly notify the court on the status of any case marked stayed by a pending bankruptcy proceeding or otherwise. Counsel shall take further proceedings within 60 days after any stay has been lifted.

**ALL DISCOVERY ORDERS MUST BE COMPLIED WITH. FAILURE TO COMPLY SHALL RESULT IN PRECLUSION AND/OR DISMISSAL OF PLEADINGS. DEPOSITIONS AND DEFENSE PHYSICAL EXAMINATIONS MAY BE DEEMED WAIVED BY THE COURT AS A RESULT OF FAILING TO SCHEDULE SUCH EXAMINATIONS.**

**FAILURE TO FILE THE NOTE OF ISSUE BY THE DATE DIRECTED SHALL RESULT IN DISMISSAL.**