

**HONORABLE LEWIS J. LUBELL, J.S.C.**  
**Supreme Court of the State of New York**  
**Westchester County Courthouse**  
**111 Dr. Martin Luther King Jr. Boulevard**  
**White Plains, New York 10601**

**STAFF**

**Eva Nilsson-Smith, Secretary**

**Joseph Tuohy, Part Clerk**

**Gardner Miller, Principal Law Clerk**

Unless otherwise ordered, all civil actions before Justice Lubell shall be conducted in accordance with the following practices.

**I. E-Filing Rules and Protocol**

All parties in matters subject to the E-Filing Rules (*see* Uniform Rules for Trial Cts [22 NYCRR] §§ 202.5-b and 202.5-bb)<sup>1</sup> should familiarize themselves with the Westchester County E-Filing Protocol.<sup>2</sup>

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 Civil Department at **914-824-5300**.

All documents in E-Filing Cases must be filed through the New York State Courts E-Filing System (NYSCEF), unless subject to an exception or an exemption. All submissions to the Court, including proposed orders, proposed judgments, and letters, must be e-filed.

**II. Motions**

**A. Return Date.** Motions should be made returnable on Friday. If the movant makes the motion returnable on another day, the Court may administratively adjourn the motion to the following Friday. There is no appearance on the return date, unless specifically directed by the Court. Oral argument may be requested by noting “Oral Argument Requested” immediately over the index number on the Notice of Motion or in a separately filed letter. If the Court, in its discretion, determines that oral argument is required, the movant’s attorney will be so advised and will be required to notify all parties.

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<sup>1</sup> Available at: <https://iappscontent.courts.state.ny.us/nyscef/staging/legislation.htm>

<sup>2</sup> Available at: <https://www.nycourts.gov/LegacyPDFS/courts/9jd/Efile/WestchesterCountyJointProtocols.pdf>

**B. Motion Papers.** Please consult the Rules for the Medical, Dental & Podiatric Malpractice Part for the Supreme Court of Westchester County (MDPM-P), which are available here:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/medmal/MedMalPartRules.pdf>

**C. Orders to Show Cause.** Unless otherwise inapplicable, any application for temporary injunctive relief shall comply with Uniform Rules for Trial Courts (22 NYCRR) § 202.7 (f) by including either: (i) an affirmation demonstrating that a good faith effort has been made to notify the party against whom the temporary restraining order is sought of the time, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application, or (ii) an affirmation that there will be significant prejudice to the party seeking the restraining order by giving of notice.

**D. Applications to Adjourn a Motion.** Please consult the MDPM-P Rules, which are available here:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/medmal/MedMalPartRules.pdf>

### **III. Communications with Chambers**

**A. Letters.** Unless otherwise directed by Justice Lubell, communications with Chambers shall be by letter, submitted on NYSCEF, unless subject to an exception or an exemption. If your submission requires immediate attention, please email the letter to Eva Nilsson-Smith in Chambers ([etsmith@nycourts.gov](mailto:etsmith@nycourts.gov)) as well as filing the letter on NYSCEF.

**B. Telephone Calls.** For scheduling and calendar matters, please call the Part Clerk, Joseph Tuohy, at **914-824-5623** between 9 a.m. and 4:30 p.m. For matters not addressed in these rules or in emergency situations requiring immediate attention, please call Chambers at **914-824-5392** and, if necessary, leave a message, noting the name and index number of the action and brief details as to the nature of the call.

**C. Applications to Adjourn an Appearance.** All requests for adjournments must be presented in the form of a letter or stipulation, submitted on NYSCEF, unless subject to an exception or an exemption. In either case, the letter or stipulation should state (1) the appearance date, (2) the proposed adjourned date, (3) the number of prior adjournments, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. Such requests must be at least 48 hours prior to the date of the appearance, unless good cause shown.

**IV. Trials**

- A. Counsel shall provide the Court with the following as soon as possible after the commencement of the trial:
- 1) Marked pleadings and an exhibit list.\*
  - 2) Contentions of the parties on one typed page, single spaced.
  - 4) All previous judicial decisions, including appellate decisions, entered in the case.
  - 4) Pre-trial memoranda of law as to any known disputed legal issues that must be determined by the Court.
  - 5) A list of witnesses for each party.

\* Material to be used on cross-examination need not be listed on the exhibit list. Only those items received in evidence will be marked by the reporter. The reporter is to be provided with an exhibit list.

- B. Counsel shall provide the Court with the following at the close plaintiff's case:
- 1) Requests to charge. Requests to charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted via e-mail to [llubell@nycourts.gov](mailto:llubell@nycourts.gov), notwithstanding the standard charges given by the Court. Unless counsel seek a deviation from the pattern charge or additions to the pattern charge, only the PJI numbers and section title need be submitted. Where deviations, additions or charges which require the inclusion of information or material relative to the factual or legal issues adduced at trial are requested, the full text of such requests, including included material, must be submitted, together with any supporting legal authority. All submissions must be served on opposition counsel. Final charges will be formalized at a charge conference during the course of the trial.
  - 2) 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 side shall present a separate proposed verdict sheet. If it is feasible, such proposals shall also be submitted via e-mail to [llubell@nycourts.gov](mailto:llubell@nycourts.gov) such as is compatible with Microsoft Word or WordPerfect. The final verdict sheet will be formalized during a charge conference to be held during the course of the trial after the conclusion of the case of the plaintiff(s).

**V. General Matters**

**A. Appearing Counsel.** 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 should make every effort to be on time for all scheduled appearances.

**B. Resolution of the Action.** 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.

**C. Hard Copy Submissions**

This Part will reject any hard copy submissions in e-filed cases unless those submissions are accompanied by a completed “Notice of Hard Copy Submission - E-Filed Case” form, as required by Uniform Rules for Trial Courts (22 NYCRR) § 202.5-b (d) (1) (iv).<sup>3</sup>

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<sup>3</sup> Available at: <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/notice.hard.copy.submission.pdf>