

**INDIVIDUAL PART RULES**  
**Justice Mary H. Smith**  
**Supreme Court of the State of New York**  
**Westchester County Courthouse**  
**111 Dr. Martin Luther King Jr. Boulevard**  
**White Plains, New York 10601**

**STAFF**

**Gardner Miller, Principal Law Clerk**  
**Cassidy Allison, Assistant Law Clerk**  
**Terence Flanagan, Part Clerk**

Unless otherwise ordered, all civil actions before Justice Smith 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 will 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.** Unless otherwise permitted by the Court: (i) affirmations, affidavits, and memoranda of law in support of and in opposition to motions are limited to 25 pages, and (ii) affirmations, affidavits, and memoranda of law in reply are limited to 10 pages. Memoranda in excess of 10 pages shall contain a table of contents and a table of authorities. Legal argument should be confined to the memoranda of law. Unless prior permission has been granted, the Court will not consider papers in surreply or papers submitted after the return date.

**C. Orders to Show Cause.** Unless otherwise inapplicable, any application for temporary injunctive relief shall comply with Uniform Rules for Trial Cts (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.

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

**A. Letters.** 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 fax the letter to Chambers at **914-824-5885** as well as filing the letter on NYSCEF. The Court does not, as a matter of course, mail courtesy copies of Decisions and Orders. However, any counsel submitting a stamped, self-addressed envelope, may receive a courtesy copy.

**B. Telephone Calls.** For scheduling and calendar matters, please call the Part Clerk, Terence Flanagan, at **914-824-5366** 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 **914-824-5431** and leave a message, noting the name and index number of the action and brief details as to the nature of the call.

**C. Requests for Adjournments.** 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 which case the letter or stipulation should be faxed to Chambers at **914-824-5885**. In either case, the letter or stipulation should state (1) the original return date, (2) the proposed return 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 made on or before the return date of the motion, unless good cause shown. The return date for the motion once made may not be extended more than three (3) times and such return date may not be extended for more than a total of sixty (60) days beyond the original return date, unless good cause shown.

**NOTE:** For matters in the Compliance Conference Part, all adjournment requests relating to summary judgment motions must be directed to and obtained from that part. This Court is not able to grant such applications for any reason.

#### **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 Bill(s) of Particulars in accordance with CPLR Rule 4012;
  - 2) Pre-trial memoranda of law as to any known disputed legal issues that must be determined by the Court;
  - 3) All previous judicial decisions, including appellate decisions, entered in the case.
  - 4) A list of witnesses for each party.
  
- B. Counsel shall provide the Court with the following at the close plaintiff's case:
  - 1) Requests to charge. The charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted. Unless counsel seeks a deviation from the pattern charge or additions to the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted, together with any supporting legal authority.
  - 2) Verdict sheet. Counsel shall jointly prepare a 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 proposed verdict sheet. If it is feasible, such proposals should be provided in an electronic version, which may be easily edited.

#### **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. Faxes.** Faxes to Chambers are permitted only if copies are simultaneously faxed or delivered to all counsel and filed on NYSCEF, unless subject to an exception or an exemption. The fax number is **914-824-5885**.

**C. 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.

**D. Working Copies.** This part requires the submission of “WORKING COPIES” of electronically filed documents (*see* Uniform Rules for Trial Cts [22 NYCRR] § 202.5-b [d] [5]). Working copies of motions, proposed orders to show cause, proposed orders, judgments, and related affidavits of service shall be delivered to Terence Flanagan, the Part Clerk, within three (3) business days following the electronic filing, but in no event later than 4:30 p.m. on the first business day following the return date. Under no circumstances shall working copies be furnished to Chambers via facsimile. Any such received submissions shall be disregarded.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly affixed thereto and comply with any other requirements set forth in the Westchester County Protocol. Working copies without the confirmation notice will not be accepted.

**E. 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 Cts (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>