

JUSTICE ROBERT R. REED

PART 43 – PRACTICES AND PROCEDURES

**Supreme Court of the State of New York
Commercial Division
60 Centre Street, Courtroom 222
New York, NY 10007**

**Part Clerk/ Courtroom Phone: 646-386-3238
Chambers Phone: 646-386-3026**

Principal Law Clerk: Mr. John Owens, Jr., Esq.
Commercial Division Law Clerk:
Assistant Law Clerk: Ms. Venessa M. Marston, Esq.
Part 43 Clerk: Ms. Alicia Washington
Chambers E-mail Address: sfc-part43@nycourts.gov

Oral Argument on Motions: Thursdays, or as otherwise directed.

Preliminary, Compliance, and Status Conferences: Tuesdays and Thursdays (as scheduled by the Court).

Pretrial Conferences: As scheduled by the Court.

GENERAL

1. All parties or their counsel must familiarize themselves with these Practice Rules and the Rules of the Commercial Division, 22 NYCRR 202.70.¹
2. Counsel and litigants (represented or self-represented) are advised that Justice Reed, his Law Clerks, and Part Clerk will not engage in any *ex parte* communications.
3. To create opportunities for attorneys knowledgeable with the subject matter of the action, and who historically have been underrepresented in the Commercial Division, courtroom participation of such attorneys is strongly encouraged. This could be achieved, for example, by having a less senior attorney, who prepared the brief on the motion, argue the motion before Justice Reed.
4. The Part Clerk is unable to accept deliveries between 1:00 p.m. and 2:15 p.m. or after 4:30 p.m.
5. Counsel must notify the Court, as soon as practicable, by conference call to the Part Clerk or e-mailing Chambers at sfc-part43@nycourts.gov, of any settlement or resolution of active cases or

¹ The Commercial Division Rules are available at: <http://ww2.nycourts.gov/rules/trialcourts/202.shtml#70>.

pending motions, to avoid the unnecessary use of Court resources on matters that are resolved or that are expected to be resolved imminently.

ELECTRONIC FILING & SUBMISSION OF DOCUMENTS

1. Part 43 is an e-filing Part.
2. All e-filed documents must be text-searchable. All electronically-submitted memorandum of law must contain bookmarks, pursuant to Commercial Division Rule 6. The submission of documents containing hyperlinks is strongly encouraged.
3. Please do not send courtesy copies of any documents that were e-filed, with the following exceptions:
 - a. Documents requiring Justice Reed’s signature should be e-mailed to Chambers at sfc-part43@nycourts.gov, **AND** the original must be sent to Part 43 by either mail or delivery service (e.g., proposed/settled orders, proposed orders to show cause, stipulations, or transcripts to be “so-ordered”).

COMMUNICATION WITH THE PART CLERK AND CHAMBERS

1. Justice Reed **DOES NOT** accept any letters, documents, or papers by e-mail or mail unless expressly permitted by these Part Rules or by prior approval of the Court. **DO NOT** copy the Court on letters exchanged between the parties.
2. To the extent that the parties seek a phone conference, they may make such request by e-mailing Chambers at sfc-part43@nycourts.gov, briefly stating the reason for such conference, which the court may grant if appropriate.

ADJOURNMENTS

1. All requests for adjournments (motions scheduled for oral argument, conferences, trials) require prior court approval. Without prior approval, a stipulation will not be accepted and failure to appear may result in a default. *Ex parte* applications will not be considered. **All adjournment requests must provide a reason for the request.**
2. All requests to adjourn a conference shall be directed to the Part Clerk at 646-386-3238 or by e-mail to Chambers at sfc-43@nycourts.gov. Applications to adjourn a conference shall be made at least 48 hours in advance of the scheduled conference. **DO NOT** call Chambers regarding scheduling matters and requests for adjournments.
3. Parties may adjourn a conference no more than two times, and for no more than a total of two (2) months.
4. In general, motions scheduled for oral argument will only be adjourned by stipulation. The parties must first consult with the Part Clerk before selecting a new date for the oral argument.

Applications to adjourn a motion scheduled for oral argument should be made at least 72 hours in advance of the oral argument.

5. Except for emergency situations, adjournments for motions scheduled for oral argument **WILL NOT** be given if the application is made less than 72 hours before the scheduled appearance.
6. To adjourn a motion that is in the Submissions Part (Room 130):
 - a. If the parties wish to adjourn the motion for less than sixty (60) days, the parties may adjourn by stipulation without an order from the Court. The stipulation must be electronically filed and filed in the Submissions Part on the return date of the motion.
 - b. If the parties wish to adjourn the motion for more than sixty (60) days from the original return date, then the parties must submit a stipulation of adjournment to the Court for approval.
 - i. Parties must deliver the proposed stipulation to the Court by e-mailing sfc-part43@nycourts.gov.
 - ii. If approved, the So-Ordered version of the stipulation will be electronically filed, so that the parties may retrieve the signed order from the electronic filing system and present it to the Submissions Part on the return date.
7. To adjourn a hearing or trial, the parties must contact the Part Clerk at 646-386-3238 on a conference call with all parties on the line. Applications for adjournments shall be made at least 48 hours in advance of the scheduled hearing or trial.
8. All Court approved stipulations to adjourn must be electronically filed by the parties.

MOTION PRACTICE

1. Substantive motions with opposition will be scheduled for oral argument at the discretion of Justice Reed, after the final appearance in the Submission Part (Room 130). Motions submitted on default or with no opposition are not generally scheduled for oral argument.
2. Summary judgment motions must be filed not later than 60 days after the filing of the Note of Issue. Each party must comply with commercial Division Rule 19-a by submitting a separate statement of material facts.
3. Orders to show cause with requests for temporary restraining orders, including requests for a temporary stay of an action, will generally not be heard *ex parte*. See 22 NYCRR 202.7(f); 22 NYCRR 202.70, Rule 20. OSC opposition papers shall be e-filed **72 hours** before the motion is to be heard. The Court **WILL NOT** accept replies on any OSC.
4. Requests for pro hac vice admission should include: a joint stipulation consenting to the admission, if possible; and an affidavit by the attorney seeking admission, accompanied by a

certificate of good standing for all jurisdictions admitted. (see sample).

5. Similarly, requests for Commissions should be made by stipulation, if possible.
6. Word limits specified in Commercial Division Rule 17 will be strictly enforced, unless permission to expand the word limit is granted in advance of the filing of papers.
7. Combined briefs – similarly situated parties (e.g., multiple defendants moving to dismiss on overlapping grounds) should make reasonable efforts to consolidate their briefing papers to avoid duplication. The Court will consider requests to enlarge applicable word limitations to facilitate the filing of combined briefs.
8. All memoranda of law must include a Table of Contents and Table of Authorities.
9. Each exhibit must be e-filed under its own document number and include a short label identifying the nature of the exhibit (e.g., Complaint, Contract dated 10/23/20, etc.).
10. The CPLR does not provide for sur-reply papers, however denominated. Papers or letters regarding a motion should not be presented to the court after submission of the motion in the Motion Submissions Part Courtroom (Room 130), or after argument in the Part, if any, except with the advance permission of the court. Materials presented in violation of this Rule will not be read.
11. Following oral argument, the movant shall order the transcript and arrange with the court reporter to have the transcript emailed to the Court at sfc-part43@nycourts.gov. Justice Reed will “so order” the transcript, if a decision and order has been issued on the record, and the Part Clerk will e-file the “so ordered” transcript.

CONFERENCES AND DISCOVERY DISPUTES

1. Only attorneys thoroughly familiar with the case may appear for a conference. The attorneys should bring signed copies of all prior decisions, orders and stipulations (both substantive and discovery related) to the conference.
2. On the conference form, please write legibly. Indicate the names, addresses, and telephone numbers of all counsel appearing at the conference. Number the pages (e.g., 1 of 3, 2 of 3). At the top of page 1 of the Compliance Conference Order, please indicate whether this is the 1st, 2nd, or 3rd compliance conference. Use specific cut-off dates (e.g., “on or before December 31, 2020”). Do not use open-ended dates (e.g., “within 45 days,” etc.).
3. Preliminary Conferences: Parties are to use this Part’s standard form Preliminary Conference Order. Copies are available on the Commercial Division website (<http://www.nycourts.gov/courts/comdiv/ny/newyork.shtml>). Parties are to meet and confer and fill out the Preliminary Conference Order in advance of the conference and must be prepared to address the topics listed in Commercial Division Rule 8.
4. Compliance Conferences: At least seven days prior to the compliance conference, counsel shall

submit a joint letter not exceeding three single-spaced pages setting forth the status of discovery, describing any significant disputes to be addressed at the conference, whether there are any outstanding motions and/or appeals, and whether the parties have attempted Alternative Dispute or other efforts at settlement.

5. Status Conference: At least seven days prior to the compliance conference, counsel shall submit a joint letter not exceeding three single-spaced pages setting forth a summary of the case, the current schedule for completion of discovery and filing of Note of Issue, and proposed revisions to the schedule and reasons therefor, whether there are any outstanding motions and/or appeals, and whether the parties have attempted Alternative Dispute Resolution or other efforts at settlement.
6. After filling out the appropriate form, counsel must check-in with the Park Clerk. At check-in, please hand in your conference form to the Part Clerk. The Part Clerk will then call your case when the Court is ready for your conference. All appearing parties must be present for a case to be conferenced. Without a conference, the order will not be signed. A conference has not been completed until either Justice Reed or his Law Clerks have reviewed the completed form and conferenced the case.
7. Settlement Conferences: The parties may, on consent, request a settlement conference by e-mailing Chambers at sfc-part43@nycourts.gov.
8. Discovery motions are discouraged. If a dispute cannot be resolved after good faith efforts to meet and confer, the parties should proceed in accordance with Commercial Division Rule 14. The parties shall coordinate to make a single Rule 14 submission to Chambers, at sfc-part43@nycourts.gov, containing both the initial letter and any responsive letter(s).

TRIALS/ EVIDENTIARY HEARINGS

1. The submissions required under Commercial Division Rules 26, 27, 28, 29, 31(a), 31(b), and 32, plus marked pleadings and a Joint Statement of Stipulated Facts and Procedural History, shall be made at least 10 days prior to the final Pre-Trial Conference.
2. In addition, to the above, for jury trials the following materials shall be submitted at least 10 days prior to the final Pre-Trial Conference:
 - i. A short summary (one or two sentences) of each party's claims to be used by the Court as part of the preliminary instructions to the jury; and
 - ii. Proposed jury instructions, including the text of relevant PJI Instructions, should be submitted by e-mail to Chambers (sfc-part43@nycourts.gov) in Word format. The submission should note the instructions to which the parties have stipulated. Any proposed deviations from PJI Instructions should be highlighted and explained, with citations to legal authority where appropriate.
3. If a lawyer wishes to make an objection, it can be accomplished by standing and saying "objection," with a brief generic ground for the objection (e.g., hearsay, leading, relevance, asked

and answered, etc.). **NO SPEAKING OBJECTIONS.**

4. All remarks related to objections should be directed to the Court. Comments should not be made to opposing counsel.
5. Do not approach a witness, the jury or the bench without permission of the Court. Please allow the witness to complete his/her answer to your question before asking another question.
6. For non-jury trials, the parties shall submit proposed findings of facts and conclusions of law within ten (10) calendar days of the close of the record, unless otherwise directed by the Court.
7. Any post-trial motion shall be made by OSC within the time allotted pursuant to CPLR 4405.
8. Trial extracts will be filed by the Part Clerk within 30 days of entry of the verdict or decision.

ALTERNATIVE DISPUTE RESOLUTION

1. If, at any point, the parties decide that they would benefit from the Commercial Division ADR program, they should submit a via e-mail a joint letter to the Court asking to be referred to ADR. In that letter, they should state whether they prefer discovery to be stayed or continued during the mediation process.
2. The Court may also order parties to the Commercial Division ADR program without the parties' request or consent.
3. For more information regarding the ADR program, please visit:
http://www.nycourts.gov/courts/comdiv/ny/ADR_overview.shtml.

CONFIDENTIALITY ORDER/SEALING DOCUMENTS

1. In the interest of reducing unnecessary litigation costs, any order regarding the confidential exchange of information must adhere to the Proposed Stipulation and Order for the Production and Exchange of Confidential Information (“the Model Form”), which is attached as Exhibit B to these Practice Rules.
2. Justice Reed is mindful that minor additions/deletions/edits to the Model Form will only drive up litigation costs. Therefore, if the parties believe there is good cause to depart from the Model Form, they must submit the following:
 - a. The proposed stipulation and order;
 - b. A red-lined version of the proposed stipulation and order, indicating any departures from the Model Form; and
 - c. A party affirmation establishing good cause for any proposed departures from the Model Form. Amended Model Forms which are not accompanied by the red-lined version and affidavit will not be approved.