

**JUSTICE MELISSA A. CRANE**  
**PART 60 PRACTICES AND PROCEDURES**

*Last updated 04/14/2022*

Supreme Court of the State of New York  
County of New York, Commercial Division Part 60  
60 Centre Street, Room 248, New York, New York 10007

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**Part 60 Telephone:** [\(646\) 386-3310](tel:6463863310)  
**Part 60 Part Clerk:** [SFC-Part60-Clerk@nycourts.gov](mailto:SFC-Part60-Clerk@nycourts.gov)  
**Part 60 Email:** [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov)

Part Clerk:	Debora Baker	<a href="mailto:SFC-Part60-Clerk@nycourts.gov">SFC-Part60-Clerk</a>
Principal Law Clerk:	Tyler D. Evans, Esq.	<a href="mailto:tdevans@nycourts.gov">tdevans@nycourts.gov</a>
Commercial Division Law Clerk:	Kevin Badkhshan, Esq.	<a href="mailto:kbadkhsh@nycourts.gov">kbadkhsh@nycourts.gov</a>

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**1. General Matters.**

- a. Communicating with the Court. All letters, stipulations, proposed orders, requests, and other communications authorized by these Part Rules must be e-filed and emailed to the court at [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov).
- b. Court Appearances. All appearances are virtual using Microsoft Teams unless otherwise indicated. Parties, of course, are welcome to appear in person and should copy all counsel and email the court ([SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov)) three days before the proceeding to request an in-person proceeding. For virtual appearances, the court will supply a Microsoft Teams link using the email addresses registered in E-Filing/NYSCEF. Participants should [download the Microsoft Teams application](#) and test it beforehand. Teams links are typically distributed on the Friday before the appearances. Please email [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov) if you have not received a Microsoft Teams invitation. Members of the public and the press may contact the same email 48 hours before the appearance to request links to proceedings.
- c. Commercial Division Rules. These Part Rules reinforce the [Commercial Division Rules](#), with which counsel should be fully familiar (Uniform Rules for the New York State Trial Courts, 22 NYCRR § 202.70).
- d. Expanded Opportunities for Speaking Roles. The court is aware that in this century very few cases go to trial and as a result, there are fewer speaking opportunities in court, particularly for less experienced lawyers (i.e., lawyers practicing for less than seven years). The court is also cognizant of the absence historically of lawyers from diverse backgrounds and women appearing in such roles in commercial cases. The court strongly encourages litigants to be mindful of opportunities for less experienced lawyers, lawyers from diverse backgrounds and lawyers who are women to conduct hearings before the

court, particularly where such members of the legal team drafted or contributed significantly to the underlying motion or prepared the witness. In those instances where the court is inclined to rule on the papers, or adhere to its default practice of permitting only one lawyer to argue, a representation that the argument would be handled by such a lawyer will weigh in favor of holding a hearing or permitting argument to be shared.

## **2. Filing of Papers and Courtesy Copies.**

- a. **E-Filing.** All cases in the Commercial Division must be electronically filed through the New York State Courts E-Filing ([NYSCEF](#)) system. All submissions made directly to Part 60 (including briefs, proposed orders and judgments, and letters) must be e-filed as well. The E-Filing Rules appear at Uniform Rules for the New York State Trial Courts, 22 NYCRR § 202.5-bb. For NYSCEF instructions or assistance, contact the [E-filing Resource Center](#), Room 119M, by telephone at (646) 386-3033 or by email at [efile@nycourts.gov](mailto:efile@nycourts.gov).
- b. **Courtesy Copies.** Do not send courtesy copies unless specifically requested.
- c. **Exhibit Labeling.** Each exhibit, whether appended to an affidavit or otherwise, should be separately e-filed with a descriptive title. Designating a document “Exhibit A” is not sufficient.
- d. **Citations to authority** must be in the body of the document, not in footnotes.

**3. Preliminary, Compliance, and Status Conferences.** Please consult Commercial Division Rules 1 and 8. Conferences are being conducted via Microsoft Teams. You will receive a Microsoft Teams link not later than Friday the week before your scheduled conference. Please email [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov) if you have not received a Microsoft Teams link.

**4. Scheduling.** Court permission is required to adjourn any scheduled appearance. Please address questions about scheduling and adjournments to the Part 60 Clerk, Debora Baker, at (646) 386-3310 or [SFC-Part60-Clerk@nycourts.gov](mailto:SFC-Part60-Clerk@nycourts.gov). Requests for adjournments must be e-filed and emailed to [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov) not less than two business days in advance of the scheduled appearance. The court will deny untimely requests absent a showing of good cause.

**5. Communicating with the Court.** Do not call Chambers. All correspondence with Chambers must be by email with all counsel of record copied.

**6. Confidentiality Orders.** Commercial Division Rule 11-g applies to all requests for orders regarding the exchange of confidential information. The form Stipulation and Order for the Production and Exchange of Confidential Information is set forth in [Appendix B to the Rules of the Commercial Division](#).

Parties requesting a confidentiality order must submit a certification of counsel stating that the proposed order strictly follows the text of Appendix B. Parties seeking to deviate from the form contained in Appendix B must comply with Commercial Division Rule 11-g (b).

- 7. Document Sealing and Redacting Procedures.** Parties may not stipulate to seal or redact documents or information. Motions to seal and/or redact must be made by order to show cause in compliance with subdivisions (A), (B), and (C) below.

Sealing entire documents or categories of documents is a drastic remedy. The court must fashion narrowly tailored orders to seal or redact certain highly sensitive information to maintain the transparency of the court's affairs and balance the interests of the public and the parties. The court strongly encourages parties to consider making motions to redact specific, protectable information in the applicable documents.

- a. Motions to Seal and/or Redact. A movant must submit a memorandum of law stating the basis of the purported good cause to seal or redact each document or piece of information. A movant must also submit a **spreadsheet** that clearly and specifically identifies: (1) each document, by bates stamp or similar; (2) the categorization of each document (see below); (3) the proposed good faith basis to seal or redact the document/information; and (4) citations to applicable authority supporting good cause.

A movant should identify proposed categories with specificity in the spreadsheet and legal memoranda to facilitate issuance of a workable and efficient order. For instance, vague categories, such as "confidential business information" or "proprietary trade information," are not generally adequate. Examples of specific categories include "third-party borrower personal identifying information," "pricing terms for international customers," "investment methodologies," "capital contribution information of private entities," and "strategies for structuring, collateralizing, and marketing structured products."

- b. Proposed Sealed or Redacted Documents. A movant must file documents to be sealed or redacted on NYSCEF as follows:
- i. Counsel must file every document sought to be sealed or redacted on NYSCEF under temporary seal in completely unredacted form (Confidential Chamber's Copy) with all proposed redactions highlighted with yellow;
  - ii. Counsel must also e-file a public copy of each document on NYSCEF with only the proposed redactions blacked out.
- c. Opposing Motions to Seal/Redact. The parties must meet and confer to resolve any disputes before filing opposition to an application to seal/redact. If the disputes cannot be resolved, the parties must email the court ([SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov)) to schedule a conference.
- d. Good Cause Found. Upon a finding of good cause, the court will issue a written order

directing the party or parties to seal or redact documents and/or specific information in the documents filed with the motion. The court will further order the party or parties to apply those written findings of good cause to any documents containing the same specific categories of information if or when other documents are later filed in the same action, reducing or eliminating the need for future motions to seal and/or redact.

## **8. Discovery.**

- a. Disclosure Disputes. Under Commercial Division Rules 14 and 14-a, counsel must attempt to resolve discovery disputes through meaningful good faith efforts (i.e., to meet and confer).
  - i. The parties must email the court to arrange a Rule 14 conference if, after these good faith efforts, they are unable to resolve or narrow the items in dispute. Copy all counsel and email [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov) (350 word limit) to arrange a Rule 14 conference.
  - ii. Rule 14 letters are permitted only if the court requests them. Authorized Rule 14 letters (750 word limit) must be e-filed and emailed to the court.
- b. E-Discovery. Appendix A to the Commercial Division Rules relating to disclosure of electronically stored information (ESI) applies to both parties and nonparties (*see* Commercial Division Rule 11-c). Parties should consider executing a stipulation for the exchange of ESI at the outset of litigation.
- c. Stays of Discovery. There is no automatic stay of discovery absent the death or bankruptcy of a party. It is counsel's responsibility to notify the court and all counsel by email in the event of the death or bankruptcy of a party.
- d. Third-Party Disclosure. Although no court order is required before seeking document disclosure from a nonparty, counsel are encouraged to confine their requests to the parties and to resort to third-party disclosure only when it reasonably appears that the information is not otherwise available (*see* Commercial Division Rule 8-b). Counsel must simultaneously serve any nonparty subpoena on all parties and provide them with notice of receipt and availability pursuant to CPLR § 3120 (3) within five days of the nonparty's compliance.
- e. Discovery Responses and Certifications. Counsel must serve privilege logs and Commercial Division Rule 11-b Certifications with all document productions and compliance with Commercial Division Rule 11-e is mandatory. The parties must verify their satisfaction of Rule 11-e (d) by providing a Certification of the Responsible Attorney at least 30 days prior to the close of fact discovery.

## **9. Inquest Procedures.**

- a. Submissions in support of an inquest should include:

- i. An affidavit from a person with knowledge of the facts setting forth how damages are computed.
  - ii. An attorney's affirmation setting forth a brief recitation of the facts and the grounds for liability. The affirmation should also discuss the damages incurred.
  - iii. Exhibits, such as invoices, financial statements, etc., in support of all requests for damages.
  - iv. Other documentation that counsel believes would assist the court, including affidavits from experts such as engineers, accountants, appraisers, etc.
  - v. Proof of service indicating that all papers and exhibits submitted to the court were served on opposing parties.
  - vi. Proposed findings of fact and a proposed order.
- b. Papers in opposition should follow the format set forth above. Where an inquest is not granted on default, parties must limit the evidence to causes of action for which the court found liability.

## **10. Motion Practice and Orders to Show Cause.**

- a. Pre-motion conferences are required for all motions and orders to show cause.
- b. Motion Sequence Numbers must appear on all motion papers, including exhibits, affirmations, settled orders, and any correspondence pertaining to the motion.
- c. Papers served on counsel pursuant to an order to show cause must be served in a manner that the recipient receives the documents by 5:00 p.m. on the date specified unless the court directs otherwise. Part 60 does not accept proposed orders to show cause filed after 12:00 p.m. on the last day of a work week (generally, Friday) or the day before a holiday.
- d. Notice of any proposed order to show cause must be sent to the court by email at [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov), whether or not a TRO is sought, when the movant notifies the adversary of the forthcoming OSC and when the OSC has been e-filed.
- e. Summary Judgment. Unless otherwise ordered, motions for summary judgment must be filed within 60 days of the note of issue. Rule 19-a statements are not required. Joint statements of undisputed facts are more helpful to the court than competing statements of "undisputed" facts.
- f. Oral Argument. Most motions have oral argument. However, the court does not generally hear oral argument on motions for admission *pro hac vice*, to renew or reargue, or to amend a pleading. Oral argument does not occur on the return date

for motions on notice. The court will contact you through NYSCEF to schedule motion appearances.

- g. Transcripts. When parties order transcripts after oral argument, they must e-file a certified copy upon receipt and email a copy to [SFC-Part60@nycourts.gov](mailto:SFC-Part60@nycourts.gov).

**11. Requests for Admission *Pro Hac Vice*.** Requests for admission *pro hac vice*, including requests by stipulation, shall be accompanied by an affirmation in support by a member of the Bar of the State of New York, an affirmation from the applicant, and a recent certificate of good standing for the applicant. The affirmation must also disclose whether the applicant has ever been, or is presently, subject to disciplinary proceedings. See the *pro hac vice* form order attached to these Part Rules.

**FORM OF PROPOSED ORDER FOR PRO HAC VICE APPLICATIONS**

\_\_\_\_\_, Esq., having applied to this court for admission pro hac vice to represent [plaintiff/defendant] \_\_\_\_\_ in this action, and said applicant having submitted in support thereof a stipulation of all parties dated\_\_\_\_\_, an affirmation, of \_\_\_\_\_, Esq., a member of the Bar of the State of New York and attorney of record herein for \_\_\_\_\_, an affirmation of the applicant dated \_\_\_\_\_, and a Certificate in Good Standing from the jurisdiction in which the applicant was admitted to the practice of law, and the court having reviewed the foregoing submissions and due deliberation having been had, it is now therefore

ORDERED that the motion is granted on consent and \_\_\_\_\_, Esq. is permitted to appear and to participate in this action on behalf of \_\_\_\_\_ ; and it is further

ORDERED that he/she shall at all times be associated herein with counsel who is a member in good standing of the Bar of the State of New York and is attorney of record for the party in question and all pleadings, briefs and other papers filed with the court shall be signed by the attorney of record, who shall be held responsible for such papers and for the conduct of this action; and it is further

ORDERED that, pursuant to Section 520.11 of the Rules of the Court of Appeals and Section 602.2 of the Rules of the Appellate Division, First Department, the attorney hereby admitted pro hac vice shall abide by the standards of professional conduct imposed upon members of the New York Bar, including the Rules of the Courts governing the conduct of attorneys and the Disciplinary Rules of the Code of Professional Responsibility; and it is further

ORDERED that he/she shall be subject to the jurisdiction of the courts of the State of New York with respect to any acts occurring during the course of his/her participation in this matter; and it is further

ORDERED that said counsel shall notify the court immediately of any matter or event in this or any other jurisdiction which affects his/her standing as a member of the Bar.

Date: \_\_\_\_\_

**ENTER:**

\_\_\_\_\_  
**Hon. Melissa A. Crane, J.S.C.**