

HON. MARGARET ANNE P.Y. CHAN

PART 49 – PRACTICES AND PROCEDURES

**Supreme Court of the State of New York
Commercial Division
60 Centre Street, Courtroom 252
New York, NY 10007**

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Preliminary, Compliance, and Status Conferences generally are held on Wednesdays and Thursdays beginning at 9:30 a.m.; Pre-trial Conferences and oral argument on motions will be held on Tuesdays beginning 10:00 am.

I. GENERAL

- A. The Rules of the Commercial Division, 22 NYCRR 202.70, are incorporated herein by reference, subject to minor modifications described below.
- B. Neither Judge Chan nor her law clerks will engage in ex parte communications. The attorney for all parties to the action must be present.
- C. Judge Chan's law clerks accept telephone calls only between 2:30 p.m. and 4:30 p.m. Communications at other times should be directed to Part Clerk John Howard at SFC-Part49-Clerk@nycourts.gov
- D. Voicemail or email to Chambers or the Part are not a substitute for seeking relief through filings on NYSCEF. Voicemails and emails should generally be limited to scheduling and logistical matters and should be directed to Clerk Howard at SFC-Part49-Clerk@nycourts.gov. Parties and counsel should not assume that voicemails and emails have been heard or read unless they have received a response. All email communications to Chambers, including administrative matters and transmittals of documents, must copy all counsel.

- E. All adjournments (motions, conferences, trials) require prior Court approval; ex parte applications for adjournments will not be considered. Applications for adjournments must be made at least 48 hours in advance of a scheduled appearance, except in cases of emergency.
- F. Counsel shall timely notify the court as soon as practicable, by email to of the settlement or imminent resolution of active cases or pending motions.

II. SUBMISSION OF DOCUMENTS

- A. Part 49 is an e-filing Part. Judge Chan does not accept working/ courtesy copies of documents.
- B. Copies of proposed orders to show cause should be emailed to Chambers at SFC-Part49-Clerk@nycourts.gov in Word format.

III. CONFERENCES

- A. Preliminary Conferences. Parties must use this Part's standard form Preliminary Conference Order. Copies are available on the Commercial Division website (<http://www.nycourts.gov/comdiv/ny/newyork.shtml>) or in Courtroom 252. Parties must meet and confer and fill out a Preliminary Conference Order in advance of the Conference and be prepared to address the topics listed in Commercial Division Rule 8.
- B. Compliance Conferences. At least seven days prior to the compliance conference, counsel shall jointly submit a completed the Part 49 discovery conference form available on the Commercial Division website (<http://www.nycourts.gov/comdiv/ny/newyork.shtml>) setting forth the status of discovery, describing any significant disputes to be addressed at the conference, any non-compliance with prior order and the date of the order, proposed revisions to a discovery schedule, whether any motions or appeals are outstanding, and whether the parties have attempted Alternative Dispute Resolution or other efforts at settlement.
- C. Status Conferences. At least seven days prior to the status conference, counsel shall jointly submit a completed Part 49 discovery conference form available on the Commercial Division website (<http://www.nycourts.gov/comdiv/ny/newyork.shtml>) setting forth: a summary of the case; the current schedule for completion of discovery and filing; Note of Issue; any non-compliance with a prior order and date of such order; 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.

- D. Settlement Conferences. The parties may, on consent, request a settlement conference by emailing Chambers at SFC-Part49-Clerk@nycourts.gov and by filing a letter on NYSCEF.
- E. Transcripts. Following all Conferences conducted on the record, the parties are to obtain a copy of the transcript and upload it onto NYSCEF.

IV. CONFIDENTIALITY ORDERS AND SEALING

- A. Model Confidentiality Order. Any proposed order regarding the confidential exchange of information shall be based on the model Stipulation and Order for the Production and Exchange of Confidential Information posted under Judge Chan’s rules.
- B. Sealing. Sealing, including redactions beyond those permitted by Redaction Rules (i.e., date of birth, Social Security number, and account numbers), is discouraged. Any request for additional redactions or sealing shall be made by Order to Show Cause and must establish “good cause” pursuant to the Uniform Rules for Trial Courts, 22 NYCRR 216.1. If the Court permits additional redactions or sealing of a document in whole or in part, counsel shall e-file both the redacted copy publicly and the unredacted copy of the document under seal. Additional instructions are available from the E-filing Clerk’s Office. Working copies of both the redacted and unredacted papers shall be delivered to the Court, with a designation clearly indicating on the cover page whether the papers are redacted or unredacted. Once a matter proceeds to trial, all sealing orders shall automatically be vacated unless the court expressly orders otherwise.
- C. Submission of Sealed Documents. Documents submitted on NYSCEF under seal shall be emailed to the court at SFC-Part49-Clerk@nycourts.gov and to all counsel appearing in the action by Dropbox or alternate means.

V. MOTION PRACTICE

- A. Limited Use of Orders to Show Cause. Motions shall be brought on by order to show cause only when there is genuine urgency (e.g., applications for provisional relief), a stay is required, a statute mandates to so proceed, or by leave of Court.(Commercial Division Rule 19.)
- B. Pre-Motion Letters. Except for discovery motions (Section VI below), no prior permission or letters pursuant to Commercial Division Rule 24 are

required before making a motion. If the parties believe that the dispute may be resolved quickly without the need for formal motion practice, they may request a pre-motion conference.

- C. Memoranda of Law. All motion papers (in support, opposition, and reply), whether by notice of motion or order to show case, must include a Memorandum of Law, subject to the word limits set forth in Commercial Division Rule 17. Therefore, Affidavits or Affirmations of counsel should not contain legal arguments.
- D. 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.
- E. Motions for Summary Judgment. Commercial Division Rule 19-a statements are required. The responsive statement submitted by the non-moving party should include the text of the moving party's statement to which each paragraph-specific response is addressed.
- F. Motion Sequence Number. All papers must have the Motion Sequence Number in bold on the front page of all papers related to any motion or cross motion.
- G. Oral Argument. Requests for oral argument may be included in the Notice of Motion or in the Opposition papers. If the Court concludes that oral argument is not necessary, a written decision will be issued on the submitted papers.
- H. Exhibits. Exhibits to motions shall be uploaded to NYSCEF individually, with each Exhibit clearly labeled with its respective identifying information.
- I. Use NYSCEF Numbers. Do not cite to affidavits or affirmations and citing to exhibit numbers or letters are not helpful; use NYSCEF Numbers with pin-point citations and, where possible, hyperlinks to the NYSCEF document.
- J. Transcripts. Following all hearings on motions, the parties must obtain a copy of the transcript and upload it onto NYSCEF. A motion is not considered fully submitted until the transcript is uploaded on NYSCEF.

VI. DISCOVERY

- A. The Court expects parties and counsel to proceed cooperatively and professionally during discovery, with an emphasis on efficiency, practicality, and proportionality.
- B. 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. Counsel seeking or objecting to discovery shall fill out the Part 49 discovery form available on the Commercial Division website (<http://www.nycourts.gov/comdiv/ny/newyork.shtml>) and email it to the Court at SFC-Part49-Clerk@nycourts.gov and upload it to NYSCEF. After the form is efiled, and counsel have made a good faith effort to consult one another and to resolve the dispute, counsel for the affected opposing party or non-party shall email a responsive letter not exceeding 3 pages, single spaced, to SFC-Part49-Clerk@nycourts.gov and upload it to NYSCEF. The parties shall coordinate to make a single Rule 14 submission to the Court containing both the initial Part 49 discovery form and any responsive letter.

VII. TRIAL RULES

- A. Pre-Trial Submissions. 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 fourteen days prior to the final Pre-Trial Conference.
- B. Additional Pre-Trial Submissions in Jury Trials. In addition to the above, for jury trials the following materials shall be submitted at least fourteen days prior to the final Pre-Trial Conference:
 - i. A short summary (a few 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 email to Chambers (SFC-Part49-Clerk@nycourts.gov) in Word format. The submissions 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. Counsel may update proposed jury instructions during the course of the trial.

C. Exhibits.

- i. On or before the first day of trial, counsel shall provide the Court with a flash drive containing copies of their proposed exhibits, as well as any binders of documents that will be shown to witnesses.
- ii. After trial, counsel shall e-file a list of the exhibits that were admitted into evidence. Counsel shall provide the Court with a flash drive containing copies of the admitted exhibits, identified by exhibit number.
- iii. Flash drives should be marked with the short caption and index number of the case.
- iv. Exhibits must be pre-marked in accordance with Commercial Division Rule 28.

2. Transcripts. For multi-day trials, the Court requires that the parties order a daily copy of the transcript for the duration of the trial. Counsel shall e-file the transcripts after trial for any post-trial motions.