

**SEVENTH JUDICIAL DISTRICT
COMMERCIAL DIVISION LOCAL RULES**



Honorable Daniel J. Doyle
99 Exchange Boulevard
Rochester, New York 14614

Principal Law Clerk: Timothy P. Donaher, Esq.
585.371.3672
tdonaher@nycourts.gov

Commercial Division Law Clerk: Aimee W. Allen, Esq.
585.371.3591
awallen@nycourts.gov

Secretary: Sue Lerkins
585.371.3643
clerkins@nycourts.gov

November 2023

General Rules

I. Appearance and Communication by Counsel

All counsel who appear before the Court must be fully familiar with the case and authorized to enter into agreements, both substantive and procedural, on behalf of their clients.

In e-filed cases, all counsel must register their appearance in the case in the New York State Courts Electronic Filing (NYSCEF) system and provide up-to-date contact information in NYSCEF. Counsel shall notify the Court immediately should their contact information change.

All cases must be e-filed unless an appropriate exception applies.

E-mail or telephone communication with the Judge directly is not permitted. Counsel is free to communicate by email with the law clerks and secretary. With the exception of permissible *ex parte* matters, all parties must be included in email communications with the law clerk or secretary.

All written communication (letters and emails) with chambers shall include the short caption and index number. For e-filed cases, the index number shall be in the proper NYSCEF format.¹

In e-filed cases, all correspondence to the Court (e.g., letters to the Court) shall be e-filed. There is no need to send paper copies to the Court.

Do not send faxes to the Court.

II. Pretrial Conferences

Pretrial conferences are encouraged by the Court. A conference may be scheduled for cases assigned to Justice Doyle by contacting the Court to request a conference, preferably by email to the law clerks and secretary, copying in all parties. Requests made by letter are also acceptable.² For cases

¹ <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/IndexNumberFormats.pdf>

² For cases in which there are parties appearing *pro se*, or cases that are not e-filed, letter applications are required.

not yet assigned, a conference may be requested by filing a Request for Judicial Intervention (RJI).³

All parties are expected to promptly respond to communications from chambers regarding scheduling. Failure to respond will lead to the conference being scheduled without the non-responding party's input.

Conferences are generally scheduled for fifteen (15) minutes.⁴ At all conferences counsel who appear shall be knowledgeable about the case, prepared to discuss the facts of the case, possible resolutions, pretrial discovery issues, and whether the use of Alternate Dispute Resolution is feasible. For non-e-filed cases, parties appearing at the first scheduled conference shall provide the Court copies of their pleadings forty-eight (48) hours prior to the scheduled conference. Copies of pleadings may be sent to tdonaher@nycourts.gov, awallen@nycourts.gov, and clerkins@nycourts.gov.

A **Case Information Statement** shall be prepared by the party requesting the preliminary conference and submitted – on notice to the opposing party - concurrently with the RJI for cases already assigned to Justice Doyle, or within seven (7) days of notification from chambers that the case has been assigned to Justice Doyle and the conference has been scheduled. The Case Information Statement must be prepared using the fillable pdf. file or submitted in Word or WordPerfect file formats. Please DO NOT e-file the case information statements; they must be emailed to clerkins@nycourts.gov.

Opposing counsel shall complete a **Case Information Statement** and provide to the Court and opposing party within seven (7) days of receipt of the initial Case Information Statement. Please DO NOT e-file the case information statements; they must be emailed to clerkins@nycourts.gov.

³ The Commercial Division RJI may be found here: <https://www.nycourts.gov/forms/rji/> RJI's must include all contact information for all parties, including email addresses, if known. Requests for Judicial Intervention filed without the required e-mail addresses for attorneys will not be processed and will be returned for the filing of an Amended RJI. Any accompanying application will not be scheduled until the Amended RJI is received. Additional information is required on RJI's filed in Tax Certiorari matters (see Section V, *infra*.)

⁴ Counsel who believes that a conference will take longer than fifteen (15) minutes should inform the Court of the need for additional time and the issues that will be discussed at the conference.

A copy of the Case Information Statement is attached as Appendix A. A fillable .pdf version is available at:

<http://ww2.nycourts.gov/courts/7JD/judgesrules.shtml>

Conferences, unless informed otherwise by the Court, shall be conducted virtually using Microsoft Teams.⁵ The Court shall provide a link to the virtual conference, using the email counsel has provided in NYSCEF or in the RJJ.

Requests for adjournment of the conference must be made in writing (email is acceptable) on notice to all parties. Adjournment of scheduled conferences is in the discretion of the Court.

The failure of counsel to attend the conference without a showing of good cause may result in the issuance of sanctions pursuant to 22 NYCRR §§ 130-2.1 and 202.27.

Should there be a need for an interpreter, please notify the Court as soon as possible.

III. Settlement Conferences and Mediation Orders

The Court is available to conduct settlement conferences. Should the parties wish to conduct a settlement conference, please contact chambers to request a conference date. The Court prefers that settlement conferences be conducted in-person, and it is mandatory that clients (or those with authority to settle) be present or available by telephone.⁶

When requesting a settlement conference, the parties consent to the Court receiving an *ex parte* position on settlement from each party.

At least forty-eight (48) hours prior to any scheduled conference (exclusive of weekends) each party shall submit, *ex parte*, their positions on settlement. Submissions shall be no longer than five (5) pages, exclusive of any submitted exhibits, and shall be emailed to the law clerks at tdonaher@nycourts.gov and awallen@nycourts.gov.

⁵ For cases in which there are parties appearing *pro se*, the conference may be in-person if the *pro se* parties do not have access to Microsoft Teams.

⁶ Upon good cause shown, settlement conferences can be conducted virtually.

Should the parties decide to avail themselves of the Seventh Judicial District's Mediation Program, they may notify the Court and request a mediation order. This request may be done without the need for a conference. Additional information about the Mediation Program may be found here:

<http://ww2.nycourts.gov/courts/7jd/ADR.shtml>

IV. Local Commercial Rules

The following local rules supplement the Rules of the Commercial Division of the Supreme Court which may be found at 22 NYCRR 202.70. To the extent the local rules vary from the rules contained in 22 NYCRR 202.70, counsel must follow the local rules.

RULE # 3 - Alternative Dispute Resolution (“ADR”).

The Court encourages participation in the Seventh Judicial District's ADR Plan - a summary of which is at:

<http://ww2.nycourts.gov/sites/default/files/document/files/2019-12/Summary%20of%207th%20JD%20ADR%20Plan.pdf>

RULE #'s 4 & 21 - Electronic Submission of Papers / Courtesy Copies.

For e-filed cases, and when the Court imposes a filing deadline, that e-filing MUST be completed by 4:00 p.m. on the day in question. Exhibits uploaded to NYSCEF must be done on an individualized basis [not all in one PDF] with a short description of the actual item [not just a repetition of the Exhibit letter or number]. Items already in NYSCEF are not part of the motion record unless added as motion exhibits, or at the very least expressly incorporated by reference. Chambers does NOT want courtesy hard copies, but the Court retains the discretion, on an individualized basis, to request one (1) courtesy hard copy.

RULE #'s 6, 16, 19 & 19-a - Form of Papers / Motions in General / Orders to Show Cause / Motions for Summary Judgment: Statement of Material Facts.

(a) Hyper-linking. Hyperlinking citations to another document filed in NYSCEF is encouraged, but not required. Citations to caselaw contained in a memorandum of law do not need to be hyperlinked.

(b) Form of Motion Papers and return dates. All Notices of Motions MUST be submitted with blank return dates to permit the Court to assign a Special

Term date. The Court will assign a return date and will file a court notice notifying the parties of the court date. In cases in which a party is not participating in e-filing, the motion return date must be served upon that party by the party bringing the motion. Please be advised that Special Term is Tuesday at 2:00 p.m.

All motions will be on submissions unless a party requests oral argument, by separate letter or e-mail, setting forth the request for oral argument and the reasons oral argument is necessary. The Court prefers to hear oral argument of motions in person but will schedule a virtual argument on written application by one or more parties outlining the need for a virtual appearance.

The Court reserves the right, in its discretion, to impose a briefing schedule on all motions.

(c) Reply Papers. Unless otherwise directed by the Court, and to augment CPLR 2214 (b), reply papers are due twenty-four (24) hours before the return date time. Reply papers are permitted on cross-motions as a matter of course, as well as on Orders to Show Cause.

(d) “Briefermations.” Combined affirmations/affidavits and legal arguments are discouraged. However, non-compliant submissions will not be rejected.

(e) Condensed transcripts are NOT permitted as motion exhibits. Noncompliant submissions will be rejected. Full transcripts must be provided as exhibits when cited to by the parties.

(f) Statement of Material Facts. Consistent with long-standing practice, such Statements are not mandated. Should counsel choose to submit a statement of material facts, citations to the exhibits supporting alleged facts are required.

(g) Adjournment of Motions. Adjournment requests must be in writing on notice. Requests by email are acceptable.

(h) Proposed Orders. When submitting proposed orders that specifically reference an attached decision, said decision must be included therewith. ALL PROPOSED ORDERS MUST BE E-FILED. With e-filing you may also send a copy in either Word or WordPerfect format to the Court.

RULE # 13 - Adherence to Discovery Schedule.

The Court will issue the first Scheduling Order, with counsel being responsible for providing any Amended Scheduling Orders in accordance with the language contained in the initial Scheduling Order. A request for

extension or amendment of the Scheduling Order MUST be made by letter request to the Court, on notice to opposing counsel, at least ten (10) business days in advance of the date to be extended, and it also MUST be accompanied by a proposed Amended Scheduling Order.

The proposed Amended Scheduling Order must contain the following language:

ORDERED, that a Note of Issue and Statement of Readiness is to be filed on or before _____, 202___. FAILURE OF THE PLAINTIFF TO FILE A NOTE OF ISSUE AND CERTIFICATE OF READINESS BY THE DATE PROVIDED HEREIN MAY RESULT IN THIS MATTER BEING DEEMED STRICKEN "OFF" THE COURT'S CALENDAR WITHOUT FURTHER NOTICE PURSUANT TO 22 NYCRR § 202.27. If so dismissed, the case may be restored without motion within one year of such dismissal by: (1) the filing of a Note of Issue and Certificate of Readiness; and, (2) the forwarding of a copy thereof with a letter requesting restoration to the Court's Assignment Clerk. Also, restoration after one year shall, before the filing of a Note of Issue and Certificate of Readiness, require the additional documentation of a sworn affidavit by a person with knowledge showing a reasonable excuse for the delay, a meritorious cause of action, a lack of prejudice to the defendant, and the absence of intent to abandon the case.

THIS COURT SHALL AT ANYTIME AFTER THE DATE LISTED ABOVE, ENTERTAIN A DEFENSE MOTION TO DISMISS FOR WANT OF PROSECUTION WHICH RELIEF COULD INCLUDE A DISMISSAL OF THE COMPLAINT. THIS ORDER SHALL SERVE AS VALID 90-DAY DEMAND UNDER CPLR 3216 IF SO PROPERLY SERVED BY REGISTERED OR CERTIFIED MAIL.

RULE # 14 - Disclosure Disputes.

Counsel are reminded that the CPLR provides for “full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof” (CPLR 3101 [a]). “New York discovery rules do not condition a party's receipt of disclosure on a showing that the items the party seeks actually exist; rather, the request need only be appropriately tailored and reasonably calculated to yield relevant information. Indeed, as the name suggests, the purpose of discovery is to determine if material relevant to a claim or defense exists.” (*Forman v. Henkin*, 30 NY3d 656, 664 [2018].)

“Indeed, “[i]f there is *any* possibility that the information is sought in good faith for possible use as evidence-in-chief or for cross-examination or in rebuttal, it should be considered [matter] material in the action” (*Vargas v. Lee*, 170 A.D.3d 1073, 1075, 96 N.Y.S.3d 587 [2d Dept. 2019] [emphasis added and internal quotation marks omitted]).” (*Tousant v. Aragona*, 208 AD3d 1044, 1046 [4th Dept. 2022].)

With these principles in mind, counsel should endeavor to resolve all discovery disputes without the need for motion practice. However, should the parties be unable to resolve discovery disputes, the Court requires a conference to potentially resolve the issue(s) prior to motion practice.

Discovery disputes will be held via a Teams conference upon a letter request or email request. If the matter still cannot be resolved, only then will motion practice be entertained.

RULE # 30 - Settlement and Pre-Trial Conferences.

(a) Settlement Conference. Once a Note of Issue has been filed, the Court will schedule a Settlement Conference. The purpose of the conference is to clarify the issues, discuss trial procedure, and provide an opportunity for settlement. The conference will be conducted in person and will be principally focused on attempts to settle the case, to determine if there will be motion practice or any special or unusual issues, and to schedule a trial date. The parties, prior to this conference, are each encouraged to submit to the Court an updated Case Information Statement containing a brief written statement addressing the nature of their contentions and an indication of the demands/offers to date. At least forty-eight (48) hours prior to any scheduled conference (exclusive of weekends) each party shall submit, *ex parte*, their positions on settlement. Submissions shall be no longer than five (5) pages, exclusive of any submitted exhibits, and shall be emailed to the law clerks at tdonaher@nycourts.gov and awallen@nycourts.gov.

At least one (1) of the attorneys who will be conducting the trial for each of the parties, and any self-represented litigants, **MUST** attend this conference (see also 22 NYCRR §§ 202.26 [e] & 202.31), unless attendance is waived by the Court.

Attendance of the parties and the insurance/corporate representative(s) may be required by the Court (see also 22 NYCRR § 202.26 [e]). When the Court indicates that in-person attendance is required, any request for a party or representative to appear by phone **MUST** be made to the Court in writing (e-

mail is acceptable to: tdonaher@nycourts.gov, awallen@nycourts.gov, and clerkins@nycourts.gov.)

If the matter does not settle at the conference, a trial date may be set during the conference, or at a later time by the Court. In setting a trial date, counsel are advised that the Uniform Rules for the Engagement of Counsel (22 NYCRR Part 125 and § 202.32) will govern any representation as to unavailability and any requested trial postponement. The Court reserves the right to request an affidavit or affirmation, as provided by those rules. Counsel are expected to have their calendars available at the Pre-Trial Conference for the purpose of setting the trial date, or a date for other matters. Jury trials are scheduled to last one week. Counsel who believe that the case will need longer than one week should notify the Court of same prior to the conference date.

Upon scheduling a trial date, the Court will issue a trial order which will set forth specific rules for conducting pretrial matters and jury selection. A copy of a standard trial order is attached as Appendix C.

Counsel must confirm with their clients and witnesses their availability for the scheduled trial date and inform the Court within seven (7) days of the date the trial was scheduled if there is a conflict with the scheduled trial date. Such notification shall be by letter, on notice to all parties, and shall include proposed dates where their clients and witnesses are available. At least four proposed dates shall be provided.

(b) Pre-Trial Conference (see also 22 NYCRR § 202.26). Normally seven (7) days prior to trial, the Court will schedule a Pre-Trial Conference to explore settlement one last time and to discuss the particulars of the trial, such as motions *in limine*, trial memoranda, trial scheduling, anticipated length of trial, any evidentiary or special issues, pre-marking exhibits, and any stipulations regarding exhibits or facts. At least one (1) of the attorneys who will be conducting the trial for each of the parties, and any self-represented litigants, **MUST** attend this conference. Attendance of the parties and the insurance/corporate representative(s) may be required by the court. When the Court indicates that in-person attendance is required, any request for a party or representative to appear by phone **MUST** be made to the Court in writing.

V. Tax Certiorari Matters

In tax certiorari matters, all RJIs must include: (1) all index numbers for prior, unresolved petitions relevant to the subject property; and (2) the subject property's (or properties') Section-Block-Lot number(s).

Should a petition be filed for a successive tax year for a subject property with one or more active petitions, petitioner must e-file a proposed consolidation order to consolidate all open petitions for the subject property under the latest index number. Such proposed order must be e-filed within fourteen (14) days of the expiration of the time-period for respondents or intervenor-respondents to answer or file a notice of appearance pursuant to RPTL § 712.

All intervenor-respondents must file a notice of appearance in NYSCEF.

All pending Tax Certiorari matters will be subject to a calendar call twice per year. Should the parties desire to conference the case with the Court outside of the calendar call dates, please contact the Court and arrange for a conference.

VI. Case Disposition

If an action is settled, discontinued, or otherwise disposed of, Counsel shall immediately inform the Court. (22 NYCRR § 202.28.)

Should the case end with a stipulation of discontinuance, such stipulation must be filed with the Clerk (or e-filed) within 60 days of the notification to the Court that the case has settled or been discontinued. The Court will provide a control date by which the stipulation shall be filed.

Failure to comply with this provision will lead to the Court issuing an order directing the parties to file a stipulation of discontinuance within fourteen (14) days of the issuance of the order. Violation of that order may lead to the imposition of sanctions.

**APPENDIX A
SAMPLE CASE INFORMATION STATEMENT**

Hon. Daniel J. Doyle, JSC

Case Information Statement

This statement shall be prepared by the party requesting the preliminary conference and submitted – on notice to the opposing party or parties - concurrently with the RJI for cases already assigned to Justice Doyle, or within seven (7) days of notification from chambers that the case has been assigned to Justice Doyle and the conference has been scheduled. The opposing party or parties shall complete the relevant information below not already completed and submit at least two (2) days in advance of the scheduled conference. DO NOT e-file the statement; please email to clerkins@nycourts.gov.

Plaintiffs/ Petitioners:

Defendants/ Respondents:

Third-Party Plaintiffs:

Third-Party Defendants:

Index No.:

Date Action Commenced:

Brief Description of Plaintiff's Claims and Damages:

(to be completed by Plaintiff- please include a list of the causes of action. Should violations of any laws or regulations be alleged in the complaint or petition, please list those as well.)

Brief Description of Defendant's Defenses and any Counterclaims:

(to be completed by Defendant(s)- please include a list of any counterclaims. Should any laws or regulations be alleged in the answer, please list those as well.)

Plaintiff's Last Demand:
(if previously made)

Defendant's Last Offer:
(if previously made)

Discovery Completed to date:

I have discussed with my client any Alternative Dispute Resolution options available through the Commercial Division and those offered by private entities. My client:

() presently wishes to jointly engage a mediator at an appropriate time to aid settlement.

() does not presently wish to jointly engage a mediator at an appropriate time to aid settlement.

Submitted by:

Date:

**APPENDIX B
SAMPLE SCHEDULING ORDER**

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

JOHN SMITH,
Plaintiff[s]/Petitioner[s],

-vs-

**COMMERCIAL DIVISION
SCHEDULING ORDER**

JOHN JONES,
Defendant[s]/Respondent[s].

Index No.:

The above parties, through their respective attorneys, having appeared for _____ on _____, 202__, and after appropriate discussion and due consideration; it is hereby

ORDERED, that the deadline to commence third-party practice shall be done within twenty (20) days of the discovery giving rise to the same; and it is further

ORDERED, that the time for completion of all fact discovery, including any depositions, shall be _____, 202__; and it is further

ORDERED, that the time for completion of expert discovery, including any depositions, shall be _____, 202__; and it is further

ORDERED, that a Compliance Conference will be held at the request of the parties or at the Court's direction; and it is further

ORDERED, that a Note of Issue and Statement of Readiness is to be filed on or before _____, 202__. FAILURE OF THE PLAINTIFF TO FILE A NOTE OF ISSUE AND CERTIFICATE OF READINESS BY THE DATE PROVIDED HEREIN MAY RESULT IN THIS MATTER BEING DEEMED STRICKEN "OFF" THE COURT'S CALENDAR WITHOUT FURTHER NOTICE PURSUANT TO 22 NYCRR § 202.27. If so dismissed, the case may be restored without motion within one year of such dismissal by: (1) the filing of a Note of Issue and Certificate of Readiness; and, (2) the forwarding of a copy thereof with a letter requesting restoration to the Court's Assignment Clerk. Also, restoration after one year shall, before the filing of a Note

of Issue and Certificate of Readiness, require the additional documentation of a sworn affidavit by a person with knowledge showing a reasonable excuse for the delay, a meritorious cause of action, a lack of prejudice to the defendant, and the absence of intent to abandon the case. THIS COURT SHALL AT ANYTIME AFTER THE DATE LISTED ABOVE, ENTERTAIN A DEFENSE MOTION TO DISMISS FOR WANT OF PROSECUTION WHICH RELIEF COULD INCLUDE A DISMISSAL OF THE COMPLAINT. THIS ORDER SHALL SERVE AS VALID 90-DAY DEMAND UNDER CPLR 3216 IF SO PROPERLY SERVED; and it is further

ORDERED, that pursuant to CPLR 3212 (a) summary judgment motions are due within one hundred and twenty (120) days of the Note of Issue filing date; and it is further

ORDERED, that any extensions of the above deadlines will be granted only upon the showing of good cause, set forth in writing, and on notice to opposing counsel, at least ten (10) business days in advance of the date to be extended. That writing must be accompanied by a proposed Amended Scheduling Order; and it is further

ORDERED, that all other due dates and court dates, including a Pre-Trial Conference, and a Trial Date will be set in a Trial Order issued after the Note of Issue filing.

Dated: _____, 202__.

HONORABLE DANIEL J. DOYLE
Justice of the Supreme Court

**APPENDIX C
STANDARD TRIAL ORDER**

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

JOHN SMITH, INC.,

Plaintiff,

TRIAL ORDER

v.

Index No:

TOM JONES, INC.

Defendant.

ORDERED, that this matter has been scheduled for a bench trial. Proof shall begin on January 22, 2024 at 9:30 a.m.

ORDERED, that pursuant to New York Uniform Rules Section 125.1 (g), where this order fixes a date for trial at least two (2) months in advance and the attorney designated as trial counsel is actually engaged in trial elsewhere on the above date, said attorney may produce substitute trial counsel; and it is further

ORDERED, that the attorneys who are to try the matter are required to appear at any future court appearances; and it is further

ORDERED, that fourteen (14) days prior to the PreTrial Conference scheduled herein, the parties shall submit to the Court and opposing counsel:

1. Copies of all pleadings submitted on behalf of their clients in this action.
2. A written stipulation governing all facts that are not in dispute.
3. Proposed jury verdict sheets. Each party shall submit a proposed verdict sheet, with any objection thereto made in writing and submitted to the Court and opposing counsel no later than seven (7) days prior to the Pretrial Conference scheduled herein or will be deemed waived.
4. Proposed Requests to Charge. Each party shall provide the Court and opposing counsel with written paragraph-specific references to Pattern Jury Instructions that said party requests be provided by the Court to the jury. Any

objections thereto shall be made in writing no later than seven (7) days prior to the Pretrial Conference scheduled herein or will be deemed waived. Any request that varies from a charge in the Pattern Jury Instruction must be set out in full.

5. Witnesses. Each party shall provide the Court and opposing counsel, a list of all witnesses (parties, experts or others) the party expects to call, except witnesses who may be called only for impeachment or rebuttal. The list shall identify witnesses the party expects to call in person and those intended to be called through deposition. A courtesy copy of such deposition testimony for the Court is required. As to any experts, the list shall provide the information called for by CPLR § 3101 (d) (1) (I). The parties shall also submit a proposed date and time for expert witness testimony. If any additional witnesses come to the attention of counsel prior to the trial, a supplemental list must be prepared for the Court as soon as possible, with notice to the opposing counsel. This supplemental list must include the reason why the witness' name was not disclosed earlier. A noncompliance with the intent and purpose of this paragraph may result in the exclusion of testimony and/or sanctions. All expert disclosures shall be provided by December 29, 2023.

6. Deposition Designations. Counsel for the parties shall consult prior to trial and shall in good faith attempt to agree upon the portions of deposition testimony to be offered into evidence without objection, and to resolve any objections regarding the use of any corresponding video recording of such deposition testimony. The parties shall delete from the testimony to be read questions and answers that are irrelevant to the point for which the deposition testimony is offered. Each party shall prepare a list of deposition testimony to be offered by it as to which objection has not been made and, identified separately, a list of deposition testimony as to which objection has been made to the introduction of the testimony or corresponding video recording of the deposition testimony. At least seven (7) days prior to the Pre-Trial Conference, or such other time as the court may set, each party shall submit its list to the court and other counsel, together with a copy of the portions of the deposition testimony as to which no objection has been made and, if applicable, the corresponding video recording of the portions of deposition testimony as to which no objection has been made. The court will rule upon the objections at the earliest possible time after consultation with counsel. This Rule does not apply to portions of deposition testimony and corresponding video recording to be used solely for impeachment or credibility purposes. The failure to comply with this Order shall waive any trial objections to the proposed testimony, and result in the preclusion of any non-designated testimony.

7. Video-recorded Testimony. Each party shall provide the Court with a copy of any proposed video-recorded testimony along with a transcript thereof. Any objections thereto shall be made in writing and provided to the Court and opposing counsel no later than seven (7) days prior to the Pretrial Conference scheduled herein or will be deemed waived. Each objection must delineate the page/line number and minute/second of the video testimony and provide a specific basis for the objection with legal support if necessary. The failure to comply with this Order shall waive any trial objections to the proposed video testimony.

8. Exhibits. Each party shall mark all exhibits (numbers for plaintiff; letters for defendant) and shall submit to the Court and opposing counsel a list of all such exhibits indicating which exhibits are stipulated into evidence. (Exhibits not listed in accordance herewith may be excluded at trial). All parties are herein ordered to consult with each other and, to the extent possible, enter into a stipulation governing the authenticity and admissibility of all exhibits.

9. Demonstrative Evidence. Whenever a subject matter will reasonably require itemization, computation or illustration, counsel shall prepare such diagrams, photographs or other similar exhibits as may reasonably be necessary for a clear presentation of the subject matter. Any objections thereto shall be made in writing and provided to the Court and opposing counsel no later than seven (7) days prior to the Pretrial Conference scheduled herein or will be deemed waived.

10. Trial Memorandum of Law. Each party shall submit a trial memorandum of law to the Court and opposing counsel. The memorandum shall be brief, but comprehensive, and must address each question of law that the party expects to arise at trial. Copies of the cases cited in the memorandum shall be attached thereto.

11. Motions *in Limine*. Each party shall submit any motions *in limine* and a memorandum that addresses each question of law or unique evidentiary issue that the party expects to arise at trial. Responses and objections thereto shall be submitted seven (7) days prior to the Pretrial Conference scheduled herein or will be deemed waived. It is further

ORDERED, any Order to Show Cause or Motion must be submitted to this Court no later than fourteen (14) days prior to the trial. Copies of the cases cited in the application's supporting Memorandum of Law must be attached thereto. Any motions *in limine* will be heard prior to opening statements. Untimely applications will not be considered by this Court; and it is further

ORDERED that Counsel shall report to Justice Doyle's Chambers for a Pre-trial Conference, on January 11, 2024 at 2:00 p.m., at which time counsel shall submit to the Court a list of all exhibits not previously provided and a stipulation of facts not in dispute. At that time the Court will discuss any scheduling problems, set a trial schedule, review any anticipated evidentiary issues, and entertain any pre-trial applications.

Dated: August 3, 2023
Rochester, New York

The Honorable Daniel J. Doyle, J.S.C.

**APPENDIX D
SAMPLE ORDER FOR RELEASE OF SUBPOENAED RECORDS FOR
COPYING**

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

JOHN SMITH,
Plaintiff[s]/Petitioner[s],

-vs-

ORDER

JOHN JONES,
Defendant[s]/Respondent[s].

Index #: _____

A judicial subpoena duces tecum having been signed by Honorable Daniel J. Doyle, J.S.C., on _____, 202__, and duly served on the _____, by _____ [LAW FIRM NAME], in connection with the above-captioned matter, and records having been received by the Monroe County Supreme Court Assignment Clerk's Office from _____ in response to said subpoena; it is

ORDERED, that all attorneys of record in the above matter are permitted to check out the aforementioned records from the Monroe County Supreme Court Assignment Clerk's Office for copying for all counsel; and it is further

ORDERED, that said records must be returned to the Monroe County Supreme Court Clerk's Office within one (1) business day of checkout by any attorney of record.

Dated: _____, 202__.

HONORABLE DANIEL J. DOYLE
Justice of the Supreme Court

JURY SELECTION PROCESS ORDER
HONORABLE DANIEL J. DOYLE

A variation of the Struck Method is used. See 22 NYCRR § 202.33, Appendix E (C). All obvious potential jurors “for cause” will be removed in consultation with counsel during opening remarks and general questioning of the entire panel. The Court Clerk will then seat **18** prospective jurors.

All additional removals “for cause” must be done during the attorney questioning process. Therefore, if you desire to remove a juror “for cause,” you **MUST immediately bring that to the Court Clerk’s attention**. If the “for cause” challenge is consented to or granted, the Court Clerk will re-seat a new juror immediately in the empty seat and questioning will continue. The remaining seated jurors will not be re-numbered. **After voir dire is complete, no “for cause” challenges will be entertained**. See 22 NYCRR § 202.33, Appendix E (C) (3) & (5).

Plaintiff(s) and Defendant(s) will have **45 minutes** each for *voir dire*. See 22 NYCRR § 202.33 (d). If an attorney feels that they need a few more minutes, please notify the Court Clerk so that she/he can call the Judge to advise.

Unless otherwise designated by the Court, there will be **two (2) alternates** that will be **designated** but **undisclosed**. Those alternates will be the seventh and eighth jurors seated. Therefore, there will be a total of eight (8) jurors seated for the trial.

Peremptory challenges will be done either in the jury room or courtroom. Unless the Court otherwise directs, each side will have a total of four (4) peremptory challenges because two (2) alternates are being used. See CPLR 4109; 22 NYCRR § 220.1 (d). Plaintiff(s) will exercise their challenge first, then Defendant(s), and then alternate back and forth until the peremptories are exercised or waived. An attorney who waives a challenge may not thereafter exercise a peremptory challenge. See 22 NYCRR § 202.33, Appendix E(C)(5). Once all challenges are exhausted or waived, the first eight remaining jurors will be seated - (6) deliberating jurors and two (2) alternates. See 22 NYCRR § 202.33, Appendix E (C) (6). The Court Clerk will then excuse the remaining jurors and swear in the eight (8) selected jurors. The Court Clerk will call Chambers after the jury is sworn, and Chambers will advise as to when the trial will commence.

So Ordered,
Honorable Daniel J. Doyle, J.S.C.