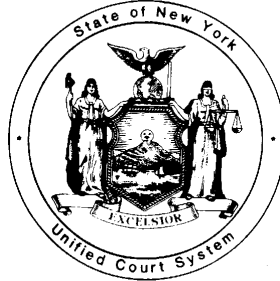


**SEVENTH JUDICIAL DISTRICT
FIRST AMENDED COMMERCIAL DIVISION LOCAL RULES**



**Honorable J. Scott Odorisi
545 Hall of Justice
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Rochester, New York 14614¹**

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**Copies may be obtained from the Monroe Supreme and County Court
Clerk's Assignment Office, Room 545 Hall of Justice, or Chambers.**

¹ This is the Court's mailing address only, so Room # 545 is not to be used as the location of any return date.

Effective Date. These First Amended Local Rules are effective **April 1, 2022**, and all counsel and litigants are charged with knowledge of the same.²

22 NYCRR § 202.70 (d) (1) - Assignment to the Commercial Division. 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 RJJ. Any accompanying application will not be scheduled until the Amended RJJ is received.

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.** Non-compliant submissions will be rejected. As noted in the uniform, state-wide rule, **hyperlinking alone does not make a document part of the motion record.**

(b) **Form of Motion Papers.** All Notices of Motions **MUST** be submitted with **blank return dates** to permit the Court to assign a Special Term date. Please be advised that Special Term is **Tuesday at 2:00 p.m.** The Court reserves the right, in its discretion, to impose a **briefing schedule** even on Notices of Motion.

(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.

² Although “counsel” is used, these Local Rules also apply to self-represented litigants.

(d) **“Briefermations.”** Combined affirmations/affidavits and legal arguments are **NOT** permitted. See also 22 NYCRR § 202.8 [c]. Non-compliant submissions will be rejected.

(e) **Condensed transcripts** are also NOT permitted as motion exhibits. Non-compliant submissions will be rejected. The Court strongly encourages use of deposition **excerpts** to keep the motion record as concise as possible.

(f) **Statement of Material Facts.** Consistent with long-standing practice, such Statements are not mandated.

(g) **Adjournment of Motions.** Adjournment requests must be in **writing** on notice.

(h) **Proposed Orders.** When submitting proposed orders that specifically reference an attached decision, said decision must actually be included therewith.

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, that is, 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 WILL 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. Discovery disputes will be held via a **telephone conference** upon a letter request. If the matter still cannot be resolved, then formal motion practice will only then be entertained.

RULE # 30 - Settlement and Pre-Trial Conferences:

(a) **Settlement Conference.** After the time to move to vacate a Note of Issue and Statement of Readiness has lapsed (22 NYCRR § 202.21 (e)), 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 are each encouraged to submit to the Court a **brief written statement** addressing the nature of their contentions and an indication of the demands/offers to date.

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 [mware@nycourts.gov, lswift@nycourts.gov, and awallen@nycourts.gov] is acceptable) **at least two (2) weeks** prior to the conference date.

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.

(b) **Pre-Trial Conference** (see also 22 NYCRR § 202.26). Just a few 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 (e-mail [mware@nycourts.gov, lswift@nycourts.gov, and awallen@nycourts.gov] is acceptable) **at least two (2) weeks** prior to the conference date.

{last revised 3/15/22}

APPENDIX A

SAMPLE SCHEDULING ORDER

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

,

Plaintiff[s]/Petitioner[s],

-vs-

,

Defendant[s]/Respondent[s].

**COMMERCIAL DIVISION
SCHEDULING ORDER**

Index #: _____

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 - via telephone conference - 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 WILL 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 **sixty (60) 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 Settlement Conference, 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 J. SCOTT ODORISI
Justice of the Supreme Court

APPENDIX B

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

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

,

Plaintiff[s]/Petitioner[s],

-vs-

ORDER

,

Defendant[s]/Respondent[s].

Index #: _____

A judicial subpoena duces tecum having been signed by Honorable J. Scott Odorisi, 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 J. SCOTT ODORISI
Justice of the Supreme Court

APPENDIX C

HONORABLE J. SCOTT ODORISI JURY SELECTION PROCESS RULES

A variation of the Struck Method is used. See 22 NYCRR § 202.33, Appendix E (C).

The Court will seat **18** prospective jurors. The front row inside the jury box will be numbered 1-7 [with farthest from the bench being Juror 1] and the back row is 8-14 [with the farthest from the bench being Juror 8]. There will be 4 chairs in front of the jury box for Jurors 15-18.

The Judge will remove all obvious potential jurors “for cause” during his opening remarks and general questioning of the entire panel.

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 and opposing counsel’s attention**. If the “for cause” challenge is consented to or granted, we will re-seat immediately in the empty seat and you will continue your questioning. We will not re-number the remaining seated jurors. **After voir dire is complete, the Court will NOT entertain any “for cause” challenges**. See 22 NYCRR § 202.33, Appendix E (C) (3) & (5).

The Plaintiff and Defendant will have approximately **thirty (30) 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 **2 alternates** that will be **designated** but **undisclosed**. Those alternates will be the 7th and 8th jurors seated. Therefore, there will be a total of 8 jurors seated for the trial.

Peremptory challenges will be done either in the jury room or courtroom. Each side will have a total of **4 preemptory** challenges [as 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 alternating back and forth until the preemptories are exhausted or waived. If an attorney waives in a round, he or she loses the challenge in that round. **If both sides waive in a round, we have a jury with the first 8 jurors in the box [6 deliberating jurors and 2 alternates]**. See 22 NYCRR § 202.33, Appendix E (C) (5). The remaining jurors will be excused by the Court Clerk and the Clerk will then swear in the 8 jurors. See 22 NYCRR § 202.33, Appendix E (C) (6).

The Court Clerk will call Chambers after the jury is sworn, and Chambers will advise as to when the proof will commence, likely as soon as possible.

So Ordered,
/s/ Honorable J. Scott Odorisi