

LOCAL COURT RULES OF THE HONORABLE LISA M. FISHER, J.S.C.

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Rule 1.0 – SCOPE AND APPLICABILITY OF THESE RULES

- (A) These Local Rules apply to all civil actions. There are additional rules for matrimonial and foreclosure matters which are governed in the Preliminary Conference Scheduling Order. These rules seek to promote the efficient and impartial administration of justice and to be in harmony with the controlling statutes and rules, including the rules of the Third Judicial District.
- (B) Files reassigned to Chambers, particularly at the time of trial, may place the parties in violation of multiple Local Rules by default (*i.e.*, trial submissions). If this is the case, please contact Chambers. Parties will not be penalized for these inadvertent violations.

Rule 2.0 – COMMUNICATIONS

- (A) Communications should be made via telephone with Chambers. For any decision making requests (*e.g.*, adjournments, conferences, disclosure issues, etc.), the requests must be in writing to Chambers' e-mail address at FisherChambers@nycourts.gov.
- a. **Do not fax voluminous documents to Chambers.**
 - b. **Do not fax and e-mail documents, just e-mail the documents.**

- (B) All communication to the Court must be carbon copied to all parties; failure to do so will result in such document not being read, and a reminder to counsel to resend while simultaneously serving all parties. This requires e-mails to Chambers to be carbon copied to all counsel via e-mail.
- (C) Documents that do not show contemporaneous service of all adversaries will be returned to the sender without being read.
- (D) If you do not know your adversaries' e-mail address, you may simultaneously serve via facsimile.
- (E) **Return Envelopes:** A party **must** submit a paid, self-addressed return envelope to the Court anytime a party submits correspondence or documents to the Court which require the Court to send them back. If you fail to do this, the Court will hold the documents for pick-up or until the proper envelope is received.

Rule 3.0 – REQUESTS FOR ADJOURNMENTS

A party should contact all other counsel to determine their position with respect to any adjournment and obtain at least three (3) alternative dates for the conference. The requesting party should contact the Court via telephone to seek permission to adjourn, and follow-up with an e-mail to set forth the alternative dates and the reason for the adjournment so the Court can So Order the letter and choose the new date, carbon copying all opposing counsel on the requesting e-mail.

Rule 4.0 – ACCOMMODATIONS

- (A) Counsel must immediately inform the Court whenever a party, witness, expert, or counsel requires any accommodations. Including but not limited to requests for foreign language or sign language interpreters, or accommodations for disabilities such as hearing, sight, walking, or any other accommodations.
- (B) The Court will assist litigants with such requests, however, keep in mind that this process may take some time to achieve and should not be requested at the last moment before a conference or proceeding.

(C) To notify the Court of a request for accommodations, please contact the Court via telephone for further instructions. An e-mail correspondence to Chambers may also be issued, but it is best to first contact the Court via telephone first.

Rule 5.0 – NOTICE OF APPEARANCE

Within one week of a written notification of assignment of Justice Lisa M. Fisher or written notification of a Preliminary Conference, whichever occurs first, each party's attorney must file via e-mail to the Court a Notice of Appearance which includes a list of the following:

- 1) All attorneys assigned to the file (partners, of counsel, and associates);
- 2) The name of the main secretary or paralegal assigned to the file;
- 3) The firm affiliation with mailing address, telephone number, facsimile number, and e-mail address of all individuals listed above; and
- 4) A written acknowledgment sent to Chambers that counsel is familiar with these Rules and the Rules of the Third Judicial District and, if not, will obtain a copy of said Rules and familiarize himself or herself with said Rules prior to any submissions.

Rule 6.0 – CHANGE OF ATTORNEYS

(A) An attorney seeking to withdraw from a case must move by Order to Show Cause whenever the grant of such application would render the party to be self-represented. The grounds for withdrawal under the ethical rules must be noted on the Order to Show Cause.

(B) If a party is merely changing attorneys from one to another, a stipulation may be used by the parties. Please properly file such stipulation per the CPLR and other rules and regulations to the County Clerk.

(C) **Notice to Court:** Any stipulation filed with the County Clerk must be simultaneously include an e-mail courtesy copy to Chambers.

Rule 7.0 – NOTE OF ISSUE/CERTIFICATE OF READINESS AND PRELIMINARY CONFERENCES

(A) Statement of Contentions: Conferences initiated by the filing of the Note of Issue and Certificate of Readiness will trigger a Preliminary Conference. At least two (2) business days before the conference, each party shall submit a statement addressing the following:

- i.** The relevant facts;
- ii.** Contentions of your party;
- iii.** The status of disclosure;
- iv.** Disclosure issues, anticipated or otherwise;
- v.** Settlement demands or offers made; and
- vi.** Any other relevant matters which you would like to discuss at the conference.

(B) Copy of Pleadings: Prior to the Preliminary Conference, each party should submit a copy of its Bill of Particulars to Chambers. This must be sent electronically to the Court at FisherChambers@nycourts.gov. A party may send electronically any other pleadings it wants the Court to review. Any electronic submissions to Chambers must be simultaneously carbon copied to all parties.

(C) Preliminary Conference Orders: Prior to the Preliminary Conference, the parties should refer and personally discuss the topics of the Preliminary Conference Order. The parties should determine prospective dates which are mutually agreeable.

Rule 8.0 – EXPERT DISCLOSURE

(A) Plaintiff's Papers: Pursuant to the Rules of the Third Judicial District, expert disclosure shall be served by the Plaintiff before or at the filing of the Note of Issue and Certificate of Readiness.

(B) Defendant's Papers: The Defendant's expert disclosure shall be served on or before sixty (60) days after service of Plaintiff's expert disclosure.

(C) Experts at trial *must* bring their *entire* file and all documents they used to formulate an opinion. If they fail to do so, they may be limited or precluded from testifying at trial as to that issue—or at all—based on the prejudice to the opposing party and on the discretion of the Judge.

Rule 9.0 – MOTIONS AND ORDERS TO SHOW CAUSE

- (A) Parties may file motions on any business day and set any return date they so wish. No personal appearances are required on the return date unless directed by the Court or requested by a party. If a party is requesting oral argument, it must be scheduled on an oral argument return date or requested by calling Chambers.
- (B) Orders to Show Cause may be submitted to the Court via U.S. Mail, but should be presented in person to be signed and completed, then filed with the County Clerk.
- (C) **Disclosure Motions:** All disclosure-related motions *require* a conference prior to filing. Failing to have a conference prior to filing a disclosure motion, absent exigent circumstances, still result in the dismissal without prejudice of the motion; this is a condition precedent to filing a motion. This includes a motion to compel, preclude, or protect.
- (D) All motion papers must be numbered consecutively at the bottom of the page.
- (E) All exhibits required to decide a motion or referred in motion papers must be attached. These exhibits *must* be tabbed and consecutively labeled alphabetically or numerically. **Separating exhibits with colored sheets is insufficient to fulfil this requirement.** All exhibits must be bound together to affixed to their respective motion document (*i.e.*, exhibits to expert affidavit must be bound with that affidavit; exhibits to an attorney affirmation must be bound with such affirmation).
- i. For exhibits consisting of any video recording, audio, or color photographs, you may submit an electronic courtesy copy to preserve the color and clarity. Please see subdiv. (F) (i), *infra*.
- (F) **Courtesy copies:** Courtesy copies may be sent to Chambers electronically as a PDF, to FisherChambers@nycourts.gov. Simultaneously also send via carbon copy any electronic courtesy copies to opposing counsel. **Do not send hardcopy courtesy copies to Chambers.**
- i. For exhibits consisting of any video recording, audio, or color photographs, please follow normal submissions rules to the County Clerk. Please download videos to CD, not USB. Videos or color photographs may also be sent to Chambers electronically as a PDF to FisherChambers@nycourts.gov. Any audio recordings must be accompanied by a transcript. Simultaneously also

send any electronic courtesy copies to opposing counsel. **Do not send hardcopy courtesy copies to Chambers.**

(G) Sur-replies: Sur-replies are strongly discouraged and must be requested from the Court *prior* to its submission. Any Sur-reply where permission is not granted will be ignored.

Rule 10.0 – PRE-TRIAL CONFERENCES/FINAL CONFERENCES

(A) Counsel attending final conferences must be familiar with the case and have settlement authority. Clients *must* be present at the final conference.

- i. Undue Hardship Exception:** If a client has a severe hardship, such as an extremely painful medical condition, his or her party may contact the Court to request an undue hardship to participate by telephone. The Court reserves the right to request the presence of any party, including one with an undue hardship, even if the Court initially grants the exception.

a. An undue hardship shall not include a far travel distance to the Court.

(B) Statement of Contentions: An updated statement of contentions must be provided ten (10) business days prior to the conference. It must address the requirements of Rule 7.0 (A) of these Local Rules, and it must address the following:

- i.** Length of trial;
- ii.** Anticipated evidentiary issues;
- iii.** List of known trial issues;
- iv.** Evidence consented to which should be pre-marked; and
- v.** Any other relevant matters you would like the Court to address.

Rule 11.0 – TRIAL SUBMISSIONS

(A) All trial submissions must be submitted in advance of the trial date. Submissions which must be submitted one week prior to the first day of trial/jury selection include the following:

- i.** Motions in *limine* of known issues;
- ii.** A copy of all trial subpoenas (ad testificandum and duces tecum);
- iii.** Jury instructions;
- iv.** Jury verdict sheets;

- v. Evidence consented to by both parties which should be pre-marked prior to the start of trial;
 - vi. Witness list;
 - vii. List of all known evidentiary issues or issues that will arise at trial;
 - viii. Medical records/paper records to the Court; and
 - ix. Evidence list of all evidence to be offered by that party.
- (B) Incomplete submissions of any items enumerated in subdiv. (A), may result in preclusion if material alterations are made, particularly as to the witness list and evidence list. Last minute amendments are not permitted without leave of Court. Deceptive practice will not be tolerated.

Rule 12.0 – ISSUES AT TRIAL

- (A) All parties should draft the jury instructions together and submit to the Court one week prior to trial.
- (B) All parties should draft the verdict sheet together and submit to the Court one week prior to trial.
- (C) **Jury Selection:** Jury selection shall follow the Court rules. The modified struck system shall be followed. The Court may preside over a portion of or the entire jury selection process. Time limits on counsel may be imposed. Counsel are to confine their voir dire questions to the qualifications of the jurors.
- (D) **Objections:** Counsel must stand to object during the trial and briefly state the grounds for the objection without elaboration, unless prompted from the Court. For instance: Objection—foundation; or Objection—leading. No speaking objections unless requested by the Court.

Rule – 13.0 – POST-TRIAL SUBMISSIONS

(A) Post-trial motions must be presented in writing. A party may make an oral motion post-trial to preserve its rights, but must follow-up with a written motion.

(B) **Non-Jury Trials:** Each party is required to submit a post-trial proposed findings of fact and conclusions of law. This should be in the form of an appellate brief pursuant to the Rules of the Third Department. Citations within the proposed findings will be to the Record. Memoranda of Law are required. A copy of each case, statute, regulation, or other legal authority cited to must also be printed out and annexed to the Memoranda of Law. A party may also forward such legal authority via e-mail to FisherChambers@nycourts.gov.

Rule – 14.0 – SETTLEMENT

Whenever a matter is settled, the parties must immediately notify Chambers of the settlement. Filing a Stipulation of Discontinuance will *not* be deemed compliance with this Rule.

Rule – 15.0 – BANKRUPTCY

If the filing of bankruptcy is claimed to impose a stay on any aspect of a pending matter, the party so asserting must immediately notify Chambers and counsel of the claim. The adversary must immediately notify Chambers whether he or she disputes the stay.