

**RULES OF
HONORABLE JAMES J. PIAMPIANO
JUSTICE OF THE SUPREME COURT**



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

COURT ORDERS

FIRST: Orders. The Court requires strict compliance with its Orders.

SECOND: Excellence Initiative. The Court requires strict compliance with the Standards and Goals of the Unified Court System, which mandate disposition of the case or filing of a trial note of issue within twelve (12) months of the filing of the Request for Judicial Intervention in standard cases and within fifteen (15) months of the filing of the Request for Judicial Intervention in complex cases.

LOCAL RULES

RULE # 1 - Effective Date. These Local Rules are effective **May 15, 2019**, and all counsel and litigants are charged with knowledge of the same.¹

RULE # 2 - E-Filing (22 NYCRR § 202.5-b). For all 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. E-filings done after that time will NOT be accepted. Also, as a matter of course, Chambers does **want courtesy hard copies**.

Rule # 2a - Requests for Judicial Intervention - RJI's 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.

RULE # 3 - Civil Case Notices of Motions. All **civil case** Notices of Motions MUST be submitted with **blank return dates** to permit the Court to assign a Civil Case Special Term date. Please be advised that Civil Case Special Term is now Thursday **mornings**.

RULE # 4 - Motion Papers. "**Briefermations**" are NOT permitted, and will not be considered (22 NYCRR § 202.8 (c)). **Condensed transcripts** are NOT permitted as exhibits, and full-sized copies are required. Additionally, all exhibits must be clearly **tabbed**, and no **double-sided** exhibits are allowed. Non-compliant submissions will be rejected. Further, when submitting a proposed Order or Judgment with a motion, the same must be submitted under a **separate backer** and not part of the bound motion. An Order or Judgment will not be signed unless and until the separate submission is made.

Rule # 5 - Reply Papers. Unless otherwise directed by the Court, and to augment CPLR 2214 (b), reply papers are due to Chambers by E-Filing and courtesy hard copies, **24 hours before** the return date time. Reply papers received with less than 24 hours notice will NOT be considered.

RULE # 6 - Sur-Reply Papers. Sur-Replies are NOT permitted **without prior leave** of the Court (CPLR 2214 (b) & (c)).

¹ Although the term "counsel" is used, these Local Rules also apply to all self-represented litigants.

RULE # 7 - Returning Papers. *Self-addressed, stamped return envelopes* are mandated for any items wished to be returned. Without the same, items will not be sent back at the Court's expense.

RULE # 8 - Appearances by Counsel with Knowledge and Authority. Counsel are expected to be familiar with all aspects, both substantive and procedural, of the case on which they appear and also be *authorized to enter into agreements* on behalf of the client. Counsel are expected to be on time for scheduled appearances, whether in court, in chambers, or by telephone. Failure to comply with this rule will be addressed, as appropriate, in accordance with 22 NYCRR §§ 130-2.1 and 202.27.

RULE # 9 - Submission of Information Prior to the First Calendar Call (22 NYCRR § 202.12). The initial Preliminary Conference will, in most cases, be conducted at the First Calendar Call, and will be principally focused on issuance of a **Scheduling Order**. However, the Court may also inquire as to whether *settlement* discussions would be worthwhile.

At least two (2) business days prior to the First Calendar Call/Preliminary Conference, counsel shall provide the Court with the following: (i) the *name, address, e-mail address, telephone, mobile phone (if counsel uses for business) and fax numbers* of counsel; (ii) a *brief written statement* regarding the case background, client's contentions, any anticipated matters of law in dispute, status of discovery, and whether settlement negotiations have taken place and, if so, the most recent demand and offer; (iii) a statement as to what *motions*, if any, are pending; and, (iv) copies of any *decisions and orders* previously rendered in the case or the Record on Appeal, if applicable.

Counsel shall be prepared to discuss: (i) *discovery*; (ii) any *motions* that have been submitted and are outstanding; (iii) *resolution* of the case, in whole or in part; and, (iv) the use of **Alternative Dispute Resolution** to resolve some or all of the issues in the litigation. Counsel are expected to have their calendars available for future scheduling.

RULE # 10 - Scheduling Order. Parties are expected to strictly comply with discovery obligations and the dates set forth in all Scheduling Orders. 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.

RULE # 11 - Disclosure/Discovery Disputes. Counsel must consult with one another in a *good faith effort* to resolve all disclosure disputes (22 NYCRR § 202.7 (a)). If counsel are unable to resolve a disclosure dispute in this fashion, then the aggrieved party may bring a motion to compel or for sanctions or other relief. If opposed, such motion may, at the discretion of the Court, be addressed in a *telephone conference* rather than by oral argument at Special Term. Dispositive motions, such as motions to dismiss or for summary judgment, will NOT be entertained by the Court as cross-motions to discovery motions.

Rule # 12 - Pre-Trial Conference (22 NYCRR § 202.26). 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 Pre-trial Conference. The purpose of the Pre-trial Conference is to **clarify the issues**, discuss **trial procedure**, and provide an opportunity for **settlement**. The Pre-Trial 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, any outstanding issues, 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 22 NYCRR §§ 202.26 (e) & 202.31), unless attendance is waived by the Court. Attendance of the parties and the insurance representative(s) may be required by the Court (22 NYCRR § 202.26 (e)). When the Court indicates that in-person attendance is required, any request for a party or insurance representative to appear by phone **MUST** be made to the Court in writing (e-mail [mwagner@nycourts.gov] and, [tmdiamon@nycourts.gov], or facsimile [(585) 784-4226] 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's Secretary. 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.

Rule # 13 - Settlement Conference (22 NYCRR § 202.33 (b)). Just a few days prior to trial, the Court will schedule a Settlement Conference to explore settlement 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. Prior to the conference, counsel shall make a good faith effort to identify issues not in contention and to resolve those disputed questions that can be decided without need for court intervention. The Court may require the parties to prepare a **written stipulation** of undisputed facts.

At the Settlement Conference, each party shall identify for the Court, and other parties, the witnesses it intends to call, the order in which they shall testify and the estimated length of their testimony.

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 representative(s) may be required by the court. When the Court indicates that in-person attendance is required, any request for a party or insurance representative to appear by phone **MUST** be made to the Court in writing (e-mail [mwagner@nycourts.gov] and,

tmdiamon@nycourts.gov], or facsimile [(585) 784-4226] is acceptable) **at least two (2) weeks** prior to the conference date.

Rule # 14 - Settlements and Discontinuances. If a matter is settled, discontinued, or otherwise disposed of, counsel shall ***promptly inform*** the Court by submission of a copy of the stipulation or by letter, facsimile [(585) 784-4226], or e-mail [mwagner@nycourts.gov and, tmdiamon@nycourts.gov], or telephone call [(585) 371-3713]. A Stipulation of Discontinuance must be filed with the Monroe County Clerk, and a ***time-stamped copy provided to the Court*** in order for a case to be closed and removed from the Court's calendar (22 NYCRR § 202.28).

So Ordered,

/s/ Honorable James J. Piampiano

APPENDIX A

HONORABLE JAMES J. PIAMPIANO JURY SELECTION PROCESS RULES

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

The Court will seat **14** 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].

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 peremptories 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 James J. Piampiano