

JUSTICE GERALD E. LOEHR

**Supreme Court of the State of New York
Westchester County Courthouse
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White Plains, New York 10601
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Staff

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The Civil Part of Gerald E. Loehr, Acting Justice of the Supreme Court, Westchester County, shall be conducted pursuant to the following information, practices, rules and procedures:

Counsel must be fully familiar with the Uniform Civil Rules for the Supreme Court 22 NYCRR Part 202.

E-Filing Rules and Protocol

All parties should familiarize themselves with the statewide [E-Filing Rules](#) (Uniform Rule §§ 202.5-b and 202.5-bb – available at www.nycourts.gov/efile) and the [Westchester County E-Filing Protocol](#) available at-
<http://www.courts.state.ny.us/courts/9jd/efile/WestchesterCountyJointProtocols.pdf>
General questions about e-filing should be addressed to the E-Filing Resource Center at 646 386 3033 or efile@courts.state.ny.us

Specific questions relating to local procedures should be addressed to **the Civil Calendar Office (914) 824-5300**.

Electronic Filing

All commercial and tort actions in Part 103, Justice Gerald E. Loehr are to be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

Working Copies

See Uniform Rule § 202.5-b(d)(4).

This Part requires working copies for all electronic submissions.

Working copies shall be delivered to Chambers.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the [front] cover page of the submission and comply with other requirements set forth in the Westchester County Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be delivered no later than noon on the first business day following the electronic filing of the document on the NYSCEF site.

Hard Copy Submissions

Part will reject any hard copy submissions in e-filed cases unless those submissions bear the Notice of Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

Scheduling:

All questions about scheduling appearances or adjournments should be addressed to the Part Clerk, Lois Kouroumousis, at (914) 824-5345. Do not contact Chambers regarding such issues.

Adjournments

- a) On consent - The clerk of the part is to be advised by telephone, followed by a letter, that a motion is adjourned on consent. A copy of the letter is to be sent to all parties. No more than two adjournments, for an aggregate period of thirty (30) days, without permission of the Court, will be granted. The co-operation of counsel is urged.
- b) Opposed - The application must be made in person on the return date of the motion. The requesting party must advise all parties that the application will be made. Any party wishing to be heard in opposition to the adjournment must appear. Alternatively, the application for adjournment may be made via a conference telephone call with all interested parties and the law clerk.

Trials

Prior to the commencement of a trial, counsel shall provide the Court with:

a) marked pleadings, and

b) an exhibit list. Material to be used on cross-examination need not be listed. The attorneys are to pre-mark their exhibits. Only those received into evidence will be marked by the reporter. The reporter is to be provided with an exhibit list.

Requests to charge shall be submitted to the Court as directed. The charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted.

Unless counsel seek a deviation from the pattern charge or additions to the pattern charge, only the PJI numbers need to be submitted. Where deviations or additions are requested, the full text of such requests must be submitted, together with any supporting legal precedents. All submissions must be served upon opposing counsel.

Verdict sheet - Counsel shall jointly prepare a verdict sheet. The verdict sheet is to be typed and in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet. If it is feasible, such proposals shall also be submitted on a computer disc in a format convertible to Word Perfect 12.0.

Communications with the Court:

(a) Written correspondence: No written correspondence may be sent to the Court without prior permission. Written correspondence sent by letter, fax or any other means, without permission will not be read and will be discarded.

(b) Telephone calls:

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.
2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with the Court or with the Law Secretary.
3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.

(c) Faxes: Faxes will not be accepted unless it is an emergency and the receipt has been authorized by Chambers.

Commercial Division Case Rules:

No motion shall be made, except as allowed by Rule 24 of the Commercial Division Rules, without a prior conference with the Court, which conference may be obtained either by conference call or, upon obtaining permission from chambers, the submittal of a brief letter application, not exceeding 1 page in length. At the conference, the Court will set a schedule for making the motion, opposing it, and, if applicable, for reply.

Motions are to be returnable on Fridays at 9:30 a.m. Motions made returnable at any other time, absent prior permission of the Court, will be adjourned by the Part Clerk to the next available Friday.

Adjournments are governed by Rule 16(c) of the Commercial Division Rules.

Motions are submitted without oral argument, unless otherwise directed by the Court.

Reply papers are not permitted, unless: (a) the right of reply is obtained by service of a notice of motion in accordance with CPLR 2214[b]; or (b) expressly permitted by the Court. Counsel may submit supplemental citations as allowed by Rule 18 of the Commercial Division Rules. Sur-reply papers, including reply papers in support of a cross-motion, are not permitted, absent prior permission of the Court. Any unauthorized papers will not be read and will be discarded.

All papers must comply with the applicable provisions of the CPLR and with Rules 16 and 18 of the Commercial Division Rules. In addition, the font size of text and footnotes must be no smaller than 12 point. Papers which do not comply may be rejected.

All motions for summary judgment shall be accompanied by a Statement of Undisputed Facts Pursuant to Rule 19-a of the Commercial Division Rules. A motion for summary judgment which lacks such a statement may be rejected. All opposing papers must include a response to the Statement of Undisputed Facts.

All exhibits shall be separately tabbed. In the event that multiple affidavits or affirmations are submitted in support of a motion under the same legal back, each such exhibit shall be accompanied by a clearly discernible side or bottom tab containing the last name of the affiant.

No motion papers will be sealed without a prior, or contemporaneous, application for sealing made pursuant to 22 NYCRR § 216.1

The Court generally does not stay disclosure pending determination of motions to dismiss or motions for summary judgment (made prior to completion of discovery).

Commercial Division Case Rules Continued:

Discovery Disputes:

With respect to cases already assigned to this Court at the time that a discovery dispute arises, no motion with respect to the dispute shall be made without a prior conference with the Court, which may be obtained by submission of a letter application, not exceeding one (1) page in length. Counsel must obtain permission from Chambers prior to the submission of such letter application.

Counsel are obligated to formulate a discovery plan that states the parties' views and proposals on any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced.

With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention which leads to the assignment to this Court, no opposition papers shall be served until there has been a prior conference with the Court, which may be obtained by letter application, not exceeding one (1) page in length. The application for a discovery conference may be made by the movant or by the opposing counsel; however, the application must be made within eight (8) days of service of the motion. Counsel must obtain permission from Chambers prior the submission of a letter application. Failure to request a discovery conference may result in the denial of the motion.

The Court endeavors to resolve discovery disputes promptly, usually by conference, which may be held telephonically or in person. In the event that the dispute is not resolved, the Court will set an expedited briefing schedule. Counsel shall, prior to requesting a conference, meet in person to discuss the issues and endeavor to resolve or limit them, prior to seeking judicial intervention.

Preliminary Conferences:

Upon receipt of a letter from the Court scheduling a preliminary conference, counsel shall meet in person and shall **jointly** prepare a brief statement describing the case and the contentions of the parties. In addition, counsel shall **jointly** complete a proposed Preliminary Conference Order, on the form supplied by the Court (also available on the Court's website). Counsel are advised that, absent very unusual complexity, the Court will require that discovery be completed within six months of the assignment of the case to the Court. These submissions shall be furnished to the Court not later than 12 p.m. on the day prior to the conference. In the event that the Court does not receive the submissions, the Court will take such action as may be appropriate under the circumstances, including adjournment of the conference, requiring counsel to complete the forms at the conference, or other steps.

Commercial Division cases sent to alternate dispute resolution shall proceed in accordance with the **Rules Of The Alternate Dispute Resolution Program** as promulgated by Justice Alan D. Scheinkman.