

Practices for Part 49

Commercial Division Rules

All parties should familiarize themselves with the Commercial Division Rules, available at http://www.nycourts.gov/courts/comdiv/newyork_rules.shtml.

Note re: Rule 19-a: Any party submitting a motion for summary judgment, other than a CPLR § 3213 motion, shall annex to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried.

Electronic Filing

All cases in Part 49 should be electronically filed through the New York State Courts E-Filing (NYSCEF) system, except those cases involving pro se litigants. All submissions to the Court (including briefs, proposed Orders and Judgments, and letters) should be electronically filed. For NYSCEF instructions, contact the E-filing Support Center at (646) 386-3033 or efile@courts.state.ny.us, or see the Commercial Division's website for New York County at: <http://www.nycourts.gov/courts/comdiv/newyork.shtml>

Motions

In addition to electronically filing motion papers, a hard copy set of all papers related to any motion must be submitted to the Motion Support Office in Room 119. If it appears to the Court that any motion papers have not been timely filed in both electronic and hard copy forms, when the parties appear for their scheduled oral argument, that argument may be adjourned.

Courtesy Copies

Except for motion submissions, which should be sent directly to the Motion Support Office, a courtesy copy of every other e-filed submission should be delivered, by mail or hand-delivery, directly to Part 49.

Scheduling

All questions about scheduling appearances or adjournments should be addressed to the Part Clerk.

Please be advised that litigants must obtain Court permission to adjourn a status conference. Excepting emergencies, such permission must be obtained no later than two (2) business days in advance of the scheduled appearance. In other words, Court permission to adjourn a Wednesday conference must be secured no later than the close of business on the preceding Friday, and Court permission to adjourn a Thursday conference must be obtained at least by the close of business on the preceding Monday.

Communicating with the Court

Litigants may communicate with the Court by mail or by telephone as follows:

(1) Written correspondence.

Hard copies of letters to Justice James A. Yates may be mailed or hand-delivered to Part 49, at 100 Centre Street, Room 1306. They may not be faxed without prior permission from the Part Clerk. If the case has been electronically filed, all letters concerning a substantive issue (e.g., letter-briefs, discovery disputes) should also be electronically filed.

(2) Telephone calls.

Litigants may call the Part Clerk.

Please note: No attorney in Justice Yates's chambers will communicate with a litigant ex parte, nor will they assist the litigants in the practice of law, such as by advising as to how to interpret a particular rule or law. If the parties would like to speak by telephone with Justice Yates or one of his law clerks, at a scheduled conference call or otherwise, they should first get both sides on the phone before placing the call to the Court. Questions pertaining to motion practice should be addressed to the Commercial Division Support Office, at (646) 386-3020.

Transcripts

If the Court directs the parties to order a transcript from any proceeding in Court, the parties are responsible for both e-filing the transcript and submitting a hard copy of it to Part 49.

Mediation

If, at any point, the parties decide that they could benefit from Commercial Division ADR or other mediation, they should write a joint letter to the Court asking to be referred to ADR or such other mediation. In that letter, they should state whether they prefer that discovery continue or be stayed during the mediation process.

Confidentiality Order

Any order regarding the confidential exchange of information will be based on the Proposed Stipulation and Order for the Production and Exchange of Confidential Information, prepared by a committee of the New York City Bar Association for use in the Commercial Division, available on the Bar Association's website at:

<http://www.nycbar.org/pdf/report/ModelConfidentiality.pdf>

If the parties believe there is good cause to depart from this model, they should call the Part Clerk to schedule a conference to discuss it with the Court.

Exhibits at Trials and Evidentiary Hearings

At any evidentiary hearing or trial, the parties shall provide the Court with two copies of the exhibit books and any other documents offered into evidence. At any court proceeding, the parties shall be prepared to hand to the Court two copies of every document that they provide to the Court.

Requests for Admission Pro Hac Vice

All requests for admission pro hac vice, whether made by motion or stipulation, shall be

accompanied by an affidavit in support from a member of the Bar of the State of New York, an affidavit from the applicant, and a recent certificate of good standing from the applicant. The affidavit of the applicant must advise the court as to the total number of times the applicant has been admitted in New York pro hac vice. The affidavit must also advise the court whether he/she has ever been or is presently subject to a disciplinary proceeding.