

Temporary Rules of Hon. Joan A. Madden (Part 11) due COVID-19

1. Document Discovery/Preliminary Conferences

- a) Documents discovery previously ordered, and not yet provided, shall be produced no later than 45 days from June 1, 2020.
- b) With respect to discovery not previously ordered, the parties shall confer with the goal of stipulating to discovery, and such stipulation shall be emailed to SFC-PART11@nycourts.gov. If approved, the so-ordered stipulation will be available on NYSCEF.
- c) Where preliminary conferences have not been held, the parties shall obtain a preliminary conference form for medical malpractice cases from the forms posted on line by the court (nycourts.gov), and confer and complete the form in accordance with the following. Document discovery shall be completed within 60 days, and plaintiff's deposition shall be scheduled within 60 days of completion of document discovery, and shall take place remotely or in person, provided precautions are taken, including, but not limited to, social distancing, number of persons present, and masks utilized to the extent possible. Depositions of medical personnel shall take place within 60 days of plaintiff's deposition, subject to their availability based on individual responsibilities related to COVID-19. The note of issue date, summary judgment deadline, and compliance conference date will be provided by the court upon receipt of the form, which shall be submitted to SFC-PART11@nycourts.gov. Upon the court's approval of the form and insertion of the dates, the order will be available on NYSCEF.
- d) If issues arise in connection with the preliminary conference, the court shall be notified via email copied to all parties, and sent to SFC-PART11@nycourts.gov, and upon receipt of the email, the court will schedule a telephone conference with the parties.

2. Depositions

With the exception of depositions of medical personnel who are unable to appear due to COVID-19 responsibilities, depositions, including those previously ordered, shall take place remotely or in person, provided precautions

are taken, including, but not limited to, social distancing, number of persons present, and masks utilized to the extent possible. With respect to any issue regarding outstanding depositions, the parties shall confer with the goal of reaching an agreement and shall send stipulations or requests for a conference to SFC-PART11@nycourts.gov.

3. The rules in nos. 1 and 2 above do not apply to matters where there are self-represented litigants. In those matters, counsel for a represented party shall notify the court at SFC-PART11@nycourts.gov and copy the self-represented litigant to request a conference.

4. Settlement/Pre-trial Conferences

a) As to any settlement/pre-trial conferences previously scheduled, but not conducted, or where such conference is sought by a party, the parties shall contact the court by emailing at SFC-PART11@nycourts.gov, with the subject line of such email to identify the name of the case, the index number, the purpose of the conference and the scheduled conference date, if any. Upon receipt of the email, the court will provide a date and time for such conference, which shall be held remotely.

b) As to any settlement/pre-trial conferences scheduled for a date after June 1, 2020, the conference shall be held on the scheduled dates and parties shall contact the court by emailing at SFC-PART11@nycourts.gov, and provide the court with call in information and other pertinent information such as whether there is a pending summary judgment motion. The subject line of such email shall identify the name of the case, the index number, the purpose of the conference and the scheduled conference date. Upon receipt of the email, the court will provide a time for such conference, which shall be held remotely.

5. Summary Judgment Motions

a) Where oral argument was previously scheduled, but not heard, the parties shall notify the court at SFC-PART11@nycourts.gov if they are requesting oral argument, which will be held remotely; otherwise the motion shall be marked submitted on the papers.

b) With respect to summary judgment motions previously filed, but not fully submitted, the parties shall stipulate to a briefing schedule to be completed within 45 days of June 1, 2020, and shall file the stipulation via NYSCEF and submit the stipulation to SFC-PART11@nycourts.gov. The motions will be marked submitted on the papers on a return date provided by the court, unless the parties request oral argument, which shall be held remotely.

6. The above temporary rules are subject to the May 2, 2020 order of Chief Administrative Judge Lawrence K. Marks that “[t]he court shall not order or compel, for a deposition or other litigation discovery, the personal attendance of physicians or other medical personnel (including administrative personnel) who perform services at a hospital or other medical facility that is active in the treatment of COVID-19 patients.”
7. All communications with the court shall be copied to counsel to all parties and any self-represented litigant(s).
8. The parties need not provide working copies of motion papers in cases which are efiled.

Dated: May 28, 2020