

JUSTICE LESLIE A. STROTH
General IAS Part 12
Supreme Court, Civil Term, New York County
80 Centre Street, Room 328, New York, NY 10013

Courtroom: 80 Centre Street, Room 328, (646) 386-3391

Part Clerk: Shaneequa Yumor, sfc-part12-clerk@nycourts.gov

Chambers Telephone: (646) 386-5622

Do *not* contact chambers to request adjournments of motions or conferences.

Principal Court Attorney: Esther Fernando, etfernan@nycourts.gov

Assistant Court Attorney: Shina Bharadwaja, sbharadwaja@nycourts.gov

All the General Rules of the Justices (Local Rules) apply unless these rules state otherwise.

I. Communications with the Part and Chambers

- A. Scheduling: All scheduling inquiries should be directed to the Part Clerk, unless otherwise instructed. Please do not call or e-mail chambers regarding scheduling matters.
- B. EX PARTE COMMUNICATIONS ARE STRICTLY PROHIBITED, except for scheduling matters with the Part Clerk. The Court will not respond to ex parte communications.
- C. Adjournments of conferences or arguments on motions: Any request for an adjournment must be made at least 48 business hours in advance of conference and must indicate whether all parties consent to the adjournment. A stipulation to adjourn must include a reason for the adjournment and shall be sent to the Part Clerk by e-mail to sfc-part12-clerk@nycourts.gov. Please note that trial and hearing dates are firm and may only be adjourned in an emergency and upon Court approval.

If a dispute arises concerning a request for an adjournment, the requesting party is to e-mail the Principal Court Attorney and the Assistant Court Attorney with all parties copied. *A request for an adjournment not on consent made less than 48 hours before the scheduled date will not be considered, and counsel must appear on the scheduled date to make an oral application for the adjournment.*

- D. E-filing: Part 12 is an e-filing part. Any questions about the e-filing system should be addressed to the E-Filing Office at (646) 386-3610 or at newyorkefile@nycourts.gov. Please call the Part Clerk if you have uploaded a document that requires the court's immediate attention.
- E. No correspondence via NYSCEF: No correspondence should be uploaded to NYSCEF in expectation of being received or reviewed by the Court, except as outlined below. If a document requires the attention of the Court or the Part Clerk, notify the Part Clerk by e-mail at sfc-part12-clerk@nycourts.gov.
- F. E-filing proposed orders and stipulations: Proposed orders and stipulations must be e-filed to the case file using the proper category and/or designation. If not properly categorized, the document will not be directed to the court's attention.
- G. Stipulation requirements:
 - i. *Actual signatures*: The Court will not so-order any stipulations without the signatures of all counsel. Typed signatures are not accepted.

- ii. *No signature pages without content*: The Court will not so-order any stipulations that have signature pages without any content or reference to the case. All signature pages must include the name and index number of the action and title of the document. All stipulations should include page numbers.
- H. Notifying Court of settlement or resolution: Counsel are under a continuing obligation to notify the Court as soon as possible in the event an action is settled, discontinued, or otherwise disposed. A stipulation of settlement or discontinuance must be filed on NYSCEF, and the Principal Court Attorney must be notified by e-mail (see above), alerting the Court to the resolution.
- I. Notifying Court of withdrawal of motion: Counsel must notify the Court as soon as practicable if a motion has been withdrawn, rendered moot, or otherwise resolved, by letter filed on NYSCEF, with a copy e-mailed to the Principal Court Attorney.
- J. Stayed Cases: If any party has died or filed a petition in bankruptcy, counsel or any self-represented litigant shall promptly notify the court by letter filed to NYSCEF and by e-mail to the Principal Court Attorney.
- K. Issued Decisions: To determine whether a decision has been rendered, please check NYSCEF or the Supreme Court Records On-Line Library (SCROLL). All decisions and orders are scanned and available online. Please do not call the Court to ask whether a decision has been issued.

II. Discovery Conferences

- A. Requesting a preliminary conference: After an RJI has been filed and Judge Stroth has been assigned to the case, a preliminary conference may be requested by contacting the Part Clerk by e-mail at sfc-part12-clerk@nycourts.gov.
 - As a matter of reference, preliminary conference forms are available online at: <https://www.nycourts.gov/LegacyPDFS/courts/1jd/supctmanh/PC-Genl.pdf>
- B. In-Person Appearances: All conferences will be held in-person at 80 Centre Street, Room 328, New York, NY 10013. Counsel must appear promptly for conferences. Failure to timely appear may result in dismissal, an order entered on default, or other sanction, as appropriate and in the Court's discretion.
- C. Compliance/status conferences: If the parties have a dispute that they are unable to resolve despite good faith efforts to do so, and if another conference is not set forth in a prior conference or discovery order or decision on a motion, they may request a conference with the Court via written letter filed on NYSCEF outlining the issue(s) and the parties' positions. A copy of the letter must also be e-mailed to the Principal Court Attorney at etfernan@nycourts.gov.
- D. ANY MOTIONS RELATED TO DISCLOSURE MAY NOT BE FILED WITHOUT FIRST CONFERENCING THE MATTER WITH THE COURT. Pursuant to the Uniform Civil Rules for the Supreme Court and the County Court (Uniform Rules) § 202.20-f, "[t]o the maximum extent possible, discovery disputes should be resolved through informal procedures, such as conferences, as opposed to motion practice."
- E. Note of Issue: A Note of Issue deadline will be determined in the preliminary conference order. If the parties request an extension of the Note of Issue deadline, a proposed stipulation may be submitted to the Court in compliance with Section II [C], above.

- F. Authority: Counsel attending the conferences are expected to be familiar with the case and have authority to discuss and stipulate to resolve all disclosure issues. Appearances by counsel without authority may be deemed a default.
- G. Failure to address outstanding discovery: At all discovery conferences, counsel must be prepared to address all outstanding discovery as well as prior conference orders and stipulations. Failure to address all outstanding discovery existing at the time of any compliance conference may be deemed a waiver of the right to obtain said discovery.
- H. Adherence to schedules: Parties must strictly comply with discovery obligations by the dates set forth in all discovery orders. Applications for extensions of discovery deadlines must be made to the Court via e-mail to etfern@nycourts.gov as soon as practicable and before expiration of such deadline(s).
- I. Failure to appear: Upon a party's second failure to appear for a conference, the case may be dismissed or the non-appearing party's pleading may be stricken. Any motion to vacate such default must fulfill the requirements of CPLR 5015.

III. Motions

- A. Motions returnable in Motion Support Part: All notices of motion are returnable in the Motion Support Part Courtroom. Inquiries regarding motions returnable in Room 130 must be directed to the Motion Support Office at (646) 386-3030. Additional information may be found on the Court's website at: https://ww2.nycourts.gov/courts/1jd/supctmanh/motions_on_notice.shtml.
- B. Motion adjournments: Adjournments of motions are to be addressed to the Motion Support Office, not the Part, unless the parties are seeking to adjourn a motion submission date more than 60 days after the original return date. In that case, the stipulation will need to be so ordered, and the parties must appropriately file the stipulation on NYSCEF.
- C. Oral argument: Motions will only be scheduled for oral argument at the Judge's discretion. If oral argument is scheduled, parties will be notified electronically of the date. For non e-filed cases, parties are strongly encouraged to go to www.nycourts.gov or <https://iapps.courts.state.ny.us/webcivil> and click on e-Track to register.
- D. Affidavit of Service: All movants must make certain that an affidavit of service is filed via NYSCEF along with submission of the motion papers. Without a proper affidavit of service, relief will be denied.
- E. Summary judgment motions: All summary judgment motions must be made no later than 60 days after filing the note of issue -- there are no exceptions without leave of Court. In the notice of motion or early in the affirmation in support, please state the date the note of issue was filed and that the motion is timely. Absent good cause for late filing, a late motion may be denied, even if one's adversary does not object. Discovery must continue during the pendency of a summary judgment motion, unless good cause is shown for a stay, as determined by the Court.
- F. Letter motions. Letter motions are prohibited and will not be considered.
- G. Motion papers:
 - i. *Motion Sequence Number*: Often several motions are submitted at the same time. To keep papers organized, the first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper right corner.
 - ii. *Exhibits*: Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations so the exact location within the exhibit can be found easily.

- H. No courtesy copies: Please do not send courtesy (paper) copies of any motion papers, affirmations, or related documents directly to the Part or chambers, unless requested by the Court.

IV. Orders to Show Cause

Pursuant to Uniform Rules § 202.8-d: “[m]otions shall be brought by order to show cause only when there is genuine urgency, a stay is required, or a statute mandates so proceeding.”

- A. Temporary Restraining Order (TRO): If a party seeks a temporary restraining order in an Order to Show Cause, they **MUST** provide proof that their adversary was notified about the application and the time, date and manner that the application will be presented to the Court. The court may, in its discretion, schedule a hearing on the TRO application virtually or set a deadline to submit written opposition to the TRO request.
- B. Ex parte office: All Orders to Show Cause must first be processed by the Ex Parte Motion Office. A movant should first contact that office to ensure that the Order to Show Cause has been processed and submitted to chambers before inquiring with the Part about the status of the Order to Show Cause.
- C. No reply: Absent express advance permission of the court, reply papers shall not be submitted on orders to show cause.

V. Transferred Matters

- A. Dates vacated: Where a matter has been transferred to Part 12 from another Part, administratively or by order, any future appearance date scheduled by the transferring court is vacated.
- B. Previously scheduled appearances: Parties with a previously scheduled conference appearance in another Part shall file a proposed discovery order in compliance with Section II (C) of these rules; and only in extraordinary cases shall the parties file a request for conference in compliance with Section II (B) of these rules.
- C. Previously scheduled inquest, hearing, or trial: Parties with a previously scheduled inquest, hearing, or trial appearance in another Part shall advise chambers of the transfer by letter to Judge Stroth, filed to NYSCEF with a courtesy copy e-mailed to the principal court attorney.

VI. Settlement Conferences and ADR

If the parties have conferred and seek a settlement conference or are amenable to submitting their case to mediation, they should email the Principal Court Attorney at etfernan@nycourts.gov with the following information: (1) nature of case; (2) substantive issues in dispute; (3) any offers and demands; (4) if relevant, nature/extent of personal injuries sustained. The court may conduct a settlement conference or refer the matter to mediation, subject to the mediation part’s approval upon a showing that mediation would be fruitful in the case.

Requests to adjourn a pre-note settlement conference must be in writing, signed by all parties, and e-mailed to chambers (etfernan@nycourts.gov) by 5 p.m. the day before the conference.

VII. Trial Rules

- A. Pre-Trial Conference (Uniform Rule § 202.26[b]): Once a trial is assigned to Part 12, the Court shall schedule a Pre-Trial Conference. Prior to said conference, counsel must confer in a good faith effort to identify matters not in contention, resolve disputed questions without need for court intervention and further discuss settlement of the case.

1. *At least 48 hours before the pre-trial conference*, counsel must submit the following to the Principal Court Attorney via e-mail, unless an explanation is provided outlining their inability to do so within that time frame. All adversaries must be copied on any e-mail.
 - A list of proposed witnesses and tentative schedule.
 - The need for any interpreters.
 - An estimate of the number of required trial days.
 - All marked pleadings, bills of particulars, and notices to admit.
 - All expert exchanges/ CPLR 3101 (d) exchanges.
 - Copies of those portions of EBTs intended for use at trial for any purpose.
 - All prior decisions in the case, including any appellate decisions.
 - Any requests for the use of technology and/or audiovisual equipment.
 - A trial memorandum, not to exceed five pages, setting forth the party's position and relevant factual and legal issues to be tried, citing relevant case law.
 2. At the pre-trial conference, counsel must be prepared to discuss settlement of the matter, as well as details as to the disagreements between them. The court may require the parties to prepare a written stipulation of undisputed facts.
- B. Prior to the start of trial, the parties must furnish the following:
1. *Motions in Limine*: All motions in limine must be presented in writing to the court as soon as practicable and no later than 48 hours before trial, or as specifically scheduled at any pre-trial conference, with a copy to all parties.
 2. *Proposed Jury Charges and Verdict Sheets*:
 - For jury trials, all counsel shall submit proposed jury charges and verdict sheets, which shall be emailed to the court attorney and opposing counsel simultaneously in Word format.
 - If the proposed instructions are taken verbatim from the Pattern Jury Instructions, PJI section numbers suffice. If a PJI instruction is not verbatim and/or requires characterizing or describing the evidence or the parties' contentions, or if the language is not based on the PJI, the exact requested language, together with the authority for it, must be submitted in Word to etfernan@nycourts.gov and to opposing counsel simultaneously.
- C. Pre-marked exhibits (Uniform Rule § 202.34): Counsel for the parties must consult before trial and in good faith attempt to agree on the exhibits that will be offered in evidence without objection. Each side must then pre-mark its exhibits in evidence, subject to court approval, as to those to which no objection has been made. All exhibits not consented to must be marked for identification only. If the trial exhibits are voluminous, counsel is to consult with the part clerk for guidance. The court will rule on the objections to the contested exhibits at the earliest possible time. Exhibits not previously demanded which are to be used solely for credibility or rebuttal need not be pre-marked.
- D. Courtesy copies: Parties must have copies of exhibits for the Court and for each adversary.
- E. Subpoenaed records: It is the duty of counsel to ensure that all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street, Room 145M.
- F. Trial material: The Court does not store trial material. Any document or material left in the courtroom will be discarded at the close of the proceeding if not retrieved by the attorneys.
- G. Trial dates scheduled by the Court are firm and may only be adjourned for an emergency. No adjournments will be granted based on the unavailability of a witness to testify unless the Court concludes that good cause exists for the adjournment. Adjournment of a trial is solely by Court order. Parties may not adjourn same without the Court's advance permission.

Last updated: March 18, 2024