

HON. RICHARD TSAI, A.J.S.C.
PART RULES
(last updated February 9, 2024)

Part 21 Courtroom & Mailing Address	80 Centre Street, Room 280 New York, NY 10013
Part 21 Telephone No.	646-386-3738
Part 21 Email	SFC-Part21-Clerk@nycourts.gov
Court conference days	Thursdays
Motion argument days	At the Direction of the Court
Principal Court Attorney:	Justin Mahony, Esq.
Chambers Telephone:	646-386-5251
Chambers Email:	SFC-Part21@nycourts.gov

These part rules incorporate by reference the [Uniform Rules for the Supreme Court and the County Court \(22 NYCRR 202.2 et seq.\)](#) and [the Uniform Rules of the Justices of Supreme Court, New York County](#) (Local Rules). Where the Local Rules differ from the Part 21 rules, these part rules control.

CONTACTING THE COURT

Matters of **administration and scheduling** should be directed to the Part 21 Clerk. Appearance dates and times of court appearances are available on [eTrack](#).

Proposed judicial subpoenas to be so-ordered should be emailed to the Part 21 Clerk and CC'd to all other parties who have appeared. The proposed subpoena should not be e-filed. The party submitting the subpoena must include an attorney affirmation explaining the relevance of the materials sought and the need for a judicial subpoena.

The parties should promptly notify the chambers of any settlement, any bankruptcy filing, any death of a party, or death or suspension of a party's counsel.

Ex Parte Communications to the Judge and to Chambers Staff are not permitted. Any email or letter sent to the judge or to his chambers staff must also be sent to the opposing party/parties. The email or letter must reflect that the opposing party has been "CC'd" on the communication. **A party who wants to call the chambers must arrange a conference call with their adversary before**

calling the chambers.¹ The court will take no action on any communication that appears to be an ex parte communication.

Except as mentioned in the part rules, letters and emails may not be submitted to the chambers in lieu of a formal motion.

DISCOVERY CONFERENCES

Discovery conferences are held on **Thursdays**. Morning conferences are scheduled for **9:30 a.m.**, **10:30 a.m.**, and **11:30 a.m.** Afternoon conferences are scheduled for **2:15 p.m.** and **3 p.m.**

All discovery conferences are in-person, unless court permission to appear virtually has been granted due to the particular circumstances of a case, e.g., as an ADA accommodation.

A default may be taken against a party that fails to appear within 45 minutes of the scheduled conference, pursuant to [22 NYCRR 202.27](#).

ADJOURNMENTS OF DISCOVERY CONFERENCES

Absent an emergency, a request to adjourn a scheduled discovery conference must be approved by the court, *even if the adjournment is on consent*. Without prior court approval, any failure to appear may be considered a default pursuant to [22 NYCRR 202.27](#).

Requests to adjourn must be emailed to SFC-Part21-Clerk@nycourts.gov and to the opposing parties' counsel, **no later than two (2) business days before the scheduled conference**. The request must include a reason for the adjournment.

Consent adjournment: the party seeking the adjournment should also attach a stipulation of adjournment to the email request.

If the adjournment request is approved, the parties should check [eTrack](#) for the new appearance date and time.

Contested adjournment: the party opposing the adjournment must promptly reply to the email adjournment request to the Part Clerk stating that they oppose the adjournment. The parties' counsel must be prepared to be available for a conference on MS Teams either to resolve the adjournment dispute, or for the contested application to be heard on the record.

If the contested adjournment request is granted, the court will inform the parties of new date and time before the conclusion of the MS Teams meeting.

¹ If you are unable to get opposing counsel to join the call and time is of the essence, please email chambers with opposing counsel CC'd to memorialize the issue.

HOW CONFERENCES ARE CONDUCTED

Counsel appearing for a scheduled conference should **check-in** with the Part Clerk upon arrival in courtroom 280.

For e-filed cases, the Part Clerk will then provide the parties' counsel with a pre-printed discovery order which bears a bar code and case-specific information, which are designed to facilitate high-volume e-filing. **Using any other generic, blank court order may result in delays and errors in entry of the conference order.**

The parties must then confer with each other to agree upon clear deadlines for discovery and to agree upon what specific discovery remains outstanding.² Once the parties have agreed to all the discovery deadlines and outstanding discovery, they should submit the completed discovery order to the Part Clerk or Court Officer for the case to be called for a conference before the court.

If the parties fail to agree upon the discovery, they should submit the pre-printed conference order to the Part Clerk or Court Officer, informing them that the parties were unable to agree.

All parties must be present when the case is called for a court conference, so that they are either available to answer to any substantive questions from the court about the case, or present to hear their adversary's responses. A default might be taken against an attorney who has left the courtroom when the case is called, even if the parties had agreed upon the discovery.³

In the event of a discovery dispute, the parties are highly encouraged to seek a ruling from the court at a discovery conference *in lieu of making a formal motion.*

The party making the application for a ruling must still show compliance with a good faith effort to resolve the discovery dispute (*see* [22 NYCRR 202.7 \[a\], \[c\]](#)) and bring to the discovery conference any supporting documentation that would have been included as exhibits on a formal discovery motion. The party making the application should inform their adversary that a ruling will be sought at the discovery conference.

Upon completion of discovery, a scheduled discovery conference is canceled only if:

- (1) plaintiff files the note of issue at least two (2) business days

² Please avoid use of the phrase "To the extent not already provided," as it is neither sufficiently specific nor clear as to whether there was any discovery non-compliance.

³ If an attorney must leave the courtroom to appear in another part, the attorney may leave their contact phone number with the Part Clerk so that they can be reached when the case is ready to be conferenced.

beforehand;

- (2) plaintiff emails their adversary and the Part Clerk at least two (2) business days before the discovery conference that the note of issue was filed; and
- (3) no one replies to the email within those two (2) business days with an objection to the note of issue.

If an objection is made, the scheduled discovery conference is not canceled. If the next scheduled conference is more than 20 days away from the date of the filing of the note of issue, then defendant must timely file a motion to vacate the note of issue to preserve their objection.

ADJOURNMENT OF DISCOVERY DEADLINES

Parties may consent to adjourn court-ordered discovery deadlines without court approval, *as long as the discovery is completed prior to the next scheduled discovery conference.*

However, court approval is required where there has been *two (2) prior instances of non-compliance* with court-ordered discovery deadlines for the specific discovery at issue, even if the adjournment is on consent. Such court approval to extend/adjourn a discovery deadline must be requested by email to the Chambers **no later than two (2) business days before the discovery deadline.**

If the extension/adjournment of a discovery deadline is opposed, the parties' counsel must be prepared to be available for a conference either by telephone or on MS Teams either to resolve the adjournment dispute, or for the contested application to be heard on the record.

EXTENSION OF THE NOTE OF ISSUE DEADLINE

If all discovery (including non-party discovery) is complete, but the deadline to file the note of issue has passed, the parties may submit a stipulation to extend the note of issue deadline to the chambers to be so-ordered, in lieu of requesting a discovery conference.

Such stipulations must clearly state, without any reservation, that all discovery is complete, and the stipulation must provide a specific date when the note of issue must be filed (e.g. "3/15/24" or "March 11, 2024"). The parties are free to agree upon any specific date that is no later than 35 days from the date of the stipulation.

MOTIONS⁴

Except for litigants who are self-represented, Part 21 is a “paperless” e-filing part; all motion papers must be e-filed through [NYSCEF](#). Please do not send any courtesy (paper) copies of any motion papers or related documents directly to the Part or Chambers, unless requested by the court.

WORD LIMITS, FORMAT, FONT SIZE

All motion papers must comply with the formatting requirements set forth in [22 NYCRR 202.5](#) and the word limits set forth in [22 NYCRR 202.8-b](#) (e.g., 7,000 words for moving papers and opposition papers, and 4,200 words for reply papers).

Requests for permission to submit an oversize submission exceeding the word limit may be submitted by a letter application, on notice to all the parties, via email to the chambers **before the motion is e-filed**. Absent court permission, the court may reject any noncompliant papers.

Notwithstanding the above, if the attorney affirmation for a party is used *solely as an index of exhibits and/or a discussion of procedural history*, then the word limit for that party’s memorandum of law in support of, or in opposition to the motion, **is increased to 10,000 words**. The word limit for reply papers is unchanged.

Each affirmation, affidavit, memorandum of law, or exhibit should be e-filed as a separate NYSCEF Document, under its own document number.

An entire motion that is scanned as one document and e-filed under a single document number may be returned for correction to be re-filed or denied with leave to renew.

References to any exhibit must include pinpoint citations to the exact page within the exhibit.

The court encourages the e-filing of *text searchable* documents for motion papers. Motion papers that are not text searchable may result in delays of the decision on the motion.

ADJOURNMENTS OF MOTIONS

For all motions pending in the Submissions Part (60 Centre Street, Room 130), please follow [Section C of the Submission Part’s rules regarding adjournments, scheduling, and withdrawals](#).

⁴ These rules apply to all motions, cross motions, opposition, reply, and all other motion papers however denominated that are served on or after February 13, 2024. Motion papers served prior to February 13, 2024 are governed by the part rules of the prior presiding judge.

When submitting a stipulation or application of adjournment to the Motion Submissions Part through NYSCEF, **please double-check that the document type selected contains the words “IN SUBMISSIONS PART – RM 130”** so that the stipulation will be routed to the appropriate court staff in charge of Room 130. A stipulation that is incorrectly e-filed under another document type will likely not be processed correctly, and the motion might be marked as submitted.

Stipulations of adjournments extending beyond 60 days from the original return date that need to be so-ordered may be emailed to the chambers, no later than 3 p.m. on the day before the return date in Room 130.

Once a motion is marked fully submitted, the court will not consider any further submissions unless expressly authorized by the court.

DISCOVERY MOTIONS

In the event of a discovery dispute, the parties are highly encouraged to seek a ruling from the court at a discovery conference *in lieu of making a formal motion.*

Unless a ruling was previously sought at a discovery conference, a discovery motion will be scheduled for a discovery conference or adjourned to the next scheduled discovery conference.

SUMMARY JUDGMENT MOTIONS

All summary judgment motions must be filed within **120** days after the filing of the note of issue.

The court does not require a Statement of Material Facts.

ORAL ARGUMENT ON MOTIONS

Oral argument is granted if all appearing parties request oral argument (*see* [22 NYCRR 202.8 \[d\]](#)). Otherwise, oral argument is generally not granted, except in limited cases where the court would like the parties to address particular issues raised in the motion papers. Virtual appearance for oral argument is granted only in cases where all the appearing parties consent to appearing virtually, and they have all participated in e-filing.

Oral argument will be scheduled after the motion is fully submitted.

ORDERS TO SHOW CAUSE

An order to show cause should be brought **only** when there is **genuine urgency** (e.g., applications for provisional relief or for a stay), or when **required by statute** (e.g. withdrawal of counsel) ([22 NYCRR 202.8-d](#)). The court may decline

to sign any proposed order to show cause lacking genuine urgency.

Please refer to the [Supreme Court of New York County's website for the procedure for filing proposed orders to show cause](#). Any questions regarding the procedure for filing proposed orders to show cause should be directed to the Ex Parte Office (60 Centre Street, Rm. 315) at 646-386- 3125.

Any party seeking temporary injunctive relief (e.g., a TRO or a stay) in an order to show cause must comply with [22 NYCRR 202.8-e](#) and submit an affirmation of such compliance.

Unless otherwise directed in the signed order to show cause, reply papers are not permitted on orders to show cause.

TRIALS

The parties are strongly encouraged to meet and confer in good faith to agree upon the exhibits that will be offered into evidence at trial without objection. All exhibits intended to be offered into evidence at the trial shall be pre-marked in accordance with [22 NYCRR 202.34](#).

Once a trial is assigned to Part 21, the court will conduct a pre-trial conference. At the pre-trial conference, plaintiff must provide all marked pleadings and all bills of particulars. Each party must also provide:

- A written list of proposed witnesses they intend to call in the order in which they shall testify, and the estimated length of time for their direct testimony. The list should identify whether a witness needs a language interpreter, along with the required language and dialect, if any. The list should identify whether a witness is a fact witness or an expert witness.
- A copy of any statutory provision in effect at the time the cause of action arose by the party who intends to rely upon such statute
- Copies of deposition testimony intended for use at trial for any purpose
- CPLR 3101(d) disclosures for any expert witness
- Any prior decisions on any motion for summary judgment, including any appellate decisions;
- Any motions in limine, which must be in writing
- Two (2) business cards for each parties' counsel

On the first day of a jury trial, the parties must submit via email to the chambers and in hard copy:

- Proposed jury verdict sheets, as a Word document (.docx);
- Proposed PJI charges, as a Word document (any PJI charges that may be read verbatim "as is" may be listed by its PJI number).

Any proposed deviations from PJI charges should be highlighted and explained, with case law citations where appropriate.

Counsel shall retrieve any trial exhibits from the courtroom within 30 days of the close of the trial.
