

Part Rules (Part 22 – Motor Vehicle Part)

Hon. Adam Silvera

80 Centre Street, Room 136, New York, NY 10013
Court Attorneys: Monica Cheng and Michael Curreri

Oral Argument on Motions – Wednesdays at 9:30am, courtroom 136
Part Clerk Phone: 646-386-3271

DCM Conferences – Mondays and Fridays at 9:30am in Room 106
Phone: 646-386-3682 or 646-386-3683 Fax: 212-952-2779

I. Communications with Part Clerk, DCM Coordinators, and Chambers – Including Adjournments

- A. Please notify Part Clerk as soon as a case settles or if all parties want a settlement conference, at any point in the litigation.
- B. No *ex parte* communications. Unless specifically instructed, please do not call or e-mail chambers. Do not copy the Court on letters exchanged between counsel.
- C. All decisions and orders (including DCM orders) are scanned and available on the internet (SCROLL or NYSCEF).

II. Motion Practice

- A. E-filed papers: The Court requires courtesy/working copies of all e-filed papers; kindly submit these in Room 130 of 60 Centre Street on the return date and they will be delivered to Chambers with the motion. **Only copies of the notice of motion, affirmations, and the memos of law must be provided. The Court does NOT require copies of the exhibits, unless such exhibits cannot be e-filed; i.e. a video.**
- B. Discovery motions are strongly discouraged.
 - 1. All initial discovery motions will be converted into a Case Scheduling Order. You should avoid a motion by simply filing an RJI with a request for a preliminary conference and you will receive a Case Scheduling Order without having to appear.
 - 2. If the dispute cannot be resolved at the conference, then the issue(s) will be narrowed and the DCM Order will specifically allow a motion to be brought and must set forth a briefing schedule.
- C. Summary judgment motions.
 - 1. 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 will be denied, even if your adversary does not object.

2. Cross-motions, especially cross-motions seeking relief unrelated to the main motion, DO NOT relate back to the date the original motion was made. “Me too” motions are not cross-motions as they do not seek relief against the movant.
3. Discovery must continue during the pendency of a CPLR §3212 motion, unless good cause is shown for a stay. Consult the DCM Coordinator at the conference regarding the “good cause”; the DCM Coordinator will consult with Justice Silvera, if necessary. A stipulation will not suffice; any stay must be so-ordered.

III. Notes of Issue

- A. A Note of Issue may NOT be filed unless a stipulation is so-ordered certifying that discovery is complete. Improperly filed Notes of Issue may be stricken *sua sponte*.
- B. Usually, the certification of completed discovery will be made at the final compliance conference. However, if all parties agree that discovery is complete before that date, then you can avoid the conference by mailing or faxing a stipulation to the DCM Coordinator at least two days before the scheduled conference. The stipulation must certify that all discovery is complete and provide for the filing of the Note of Issue. The DCM Coordinator will provide a date by which the Note of Issue must be filed and the so-ordered stipulation will be scanned and will appear on SCROLL and NYSCEF.

IV. DCM/Compliance Conferences

- A. Conferences are important; be prepared.
 1. The Court invests significant resources into the DCM system in order to efficiently and fairly resolve discovery disputes. The rules of this Part require compliance with court-ordered deadlines. Remember, these are court orders, not suggestions. The failure to adhere to deadlines and comply with orders may result in serious penalties. Counsel attending the conference are expected to be familiar with the case and have the authority to discuss and stipulate to resolve all discovery issues.
 2. Counsel are assumed to have consulted clients, examining doctors, etc. regarding their availability for EBTs, IMEs, and the like.

3. Upon a party's second failure to appear for a conference, the case may be dismissed or the party's pleading may be stricken. Any motion to vacate such a default must be brought by Order to Show Cause and must fulfill the requirements of CPLR §5015.
4. If a dispute arises about compliance with any discovery order, or if deadlines are passing without discovery being provided, DO NOT WAIT until the next conference to report, in effect, that nothing has been done. As an officer of the Court, it is counsel's responsibility to comply with court orders and to report non-compliance. If your good faith efforts to resolve the dispute fail, then immediately, without making a motion, call the assigned DCM Coordinator. Then upon the DCM Coordinator's discretion, the case will be scheduled for a resolution conference (in person or by telephone) or the date of the next scheduled conference will be advanced.

B. Instructions Applicable to Compliance Conference Orders

1. Please write legibly with a black ball point pen. Illegible orders will not be signed. You must indicate the names, addresses and telephone numbers of all counsel appearing at the conference.
2. The DCM Case Coordinators have been instructed not to make copies. Although you are free to take a picture of the stipulation with your phone, keep in mind that all orders will be scanned and will appear on SCROLL and NYSCEF. Use complete dates, including the correct year. Please remember that some of the dates you are selecting may be in the next calendar year.

V. **Trial Rules for the Part will be provided to attorneys prior to trial.**