

INDIVIDUAL PRACTICE RULES
HON. DENISE M. DOMINGUEZ, ACTING SUPREME COURT JUSTICE
PART 35- IAS PART
Supreme Court, State of New York
New York County
80 Centre Street, Courtroom 289
New York, New York 10013
Courtroom Telephone 646-386-4299
Chambers Telephone 646-386-4261
Part Email sfc-part35-clerk@nycourts.gov

I. COMMUNICATIONS WITH THE COURT

- A. **In General:** All parties with matters in Part 35 must familiarize themselves with these Part Rules.
- B. **Telephone Calls:** Telephone calls to chambers are permitted **only in emergency situations** and after being unable to reach the Part Clerk at 646-386-4299. Telephone calls to the Part Clerk should be limited to matters otherwise not explained below and made only during the business hours of 9:00 a.m. to 12:50 p.m. and 2:15 p.m. to 4:30 p.m.
- C. **Emails:** Unless otherwise instructed, or it is an urgent or brief matter, all emails sent to the Court or to the Part Clerk **must include an attached letter**, copy all parties in the action, and the subject line must include the purpose of the email, the index number, and case name. Emails sent to the Court not following these instructions, including ex-parte email correspondences, or email threads such as replies between the parties, **are not permitted, and will not receive a response.**

II. CONFERENCES

- A. **Preliminary, Compliance, and Status Conferences:** Upon receiving notification that a preliminary conference, compliance conference, or status conference, is scheduled for a specific date, parties are required to submit a joint proposed order on consent of all parties, in lieu of a court appearance.
 - i. **Submission of Proposed Orders:** Proposed orders must be submitted to the Court as an attachment to an email and sent to sfc-part35-clerk@nycourts.gov by 5 p.m. on the date the proposed order is due. Parties wishing to electronically file proposed orders on NYSCEF (not required), must also submit the proposed order by email. Parties may call or email (no letter attachment required) the Part Clerk with questions about proposed order forms. Proposed orders that are only uploaded to NYSCEF may not be seen by the Part and may need to be resubmitted. Proposed orders that are not signed by all parties are not acceptable as orders “on default” are not permitted.

- ii. **Adjournments Requests:** Parties requesting an adjournment and/or additional time to submit a proposed order must make the request by letter to be so-ordered by the Court. Parties wishing to e-file the request must also submit it by email. The Court must receive it at least two (2) business days prior to the scheduled date but no later than the date the proposed order is due.
 - iii. **Request for a Court Conference:** Parties who after conferring in good faith **and** after requesting additional time to submit a proposed order, are unable to agree upon a joint proposed order, may then request a conference with the Court. The request must be made by letter. Parties e-filing the letter must also submit it by email. The letter must include: the discovery dispute; the dates of prior conferences and orders; the good faith efforts made in advance to resolve the dispute, including the specific dates and time the parties met virtually, in-person, or spoke over the telephone; the date the proposed order was due; and the additional time requested to resolve the dispute.
- B. **Settlement Conferences:** At any time, pre-note of issue, parties may request a settlement conference with the Court by email (a letter attachment is preferred but not required). The attorneys appearing at the conference must have settlement authority and be fully familiar with the case.

III. MOTION PRACTICE

- A. **Filing Motions:** Part 35 is a mandatory e-filing part. Absent a pro-se litigant or a showing of undue hardship, all motions must be electronically filed with the General's Clerk Office.
- B. **Request for Adjournments:** Absent good cause, parties requesting to adjourn a motion must do so by letter, at least seven (7) business days before the return date. Requests to adjourn on consent must be e-filed and submitted by email to be so- ordered by the Court.
- C. **Summary Judgment Motions:** Motions for summary judgment must be filed no later than one hundred and twenty (120) days after the note of issue is filed. Adjournments to file summary judgment motions past 120 days from the date after the note of issue was filed will generally be denied.
- i. **Statement of Material Facts:** All parties moving for summary judgment must include a separate statement of material facts (see 22 NYCRR 202.8-g). Each paragraph must be a short and concise statement of an alleged undisputed material fact **and** it must be followed by a complete citation to the evidence submitted in support. The citation must be specific and include (if applicable) page numbers, paragraph numbers, line numbers, and time stamped on recordings. Citations making references only to exhibits without naming the evidence are insufficient.
 - ii. **Opposing Statement of Material Facts:** Opposing papers must include a separate

statement responding to each numbered paragraph in the moving party's statement of material facts.

iii. **Discovery During a Summary Judgment Motion:** Absent good cause, while a motion for summary judgment is pending, discovery between the parties is to continue. A party wishing to show good cause must request a conference with the Court by letter. The letter is to be submitted by email and include when the summary judgment motion was filed, the sequence number of the motion, and briefly state the reasons why discovery should be stayed.

D. **Discovery Motions:** The Court encourages parties to resolve discovery disputes without motion practice. Parties filing discovery motions must include a separate affirmation of good faith (22 NYCRR 202.7). The affirmation must include the time and dates the parties met and confer in person, virtually, or had telephone conversations to resolve the motion issue. Email attempts or communications between the parties are insufficient to satisfy an affirmation of good faith. Discovery motions filed without a showing of good faiths efforts made or attempted to resolve the matter will be denied.

E. **Oral Arguments:** In general, the Court will schedule and hold arguments as necessary.

IV. NOTE OF ISSUE

An extension of time to file the note of issue may be requested by Plaintiff via letter, to be so-ordered by the Court. The letter shall be emailed to the Part and shall explain why additional time is needed, indicate whether any prior extensions were granted and advise as to whether the request is on consent of all parties. If necessary, the parties may be directed to file a motion. The failure to file the note of issue when a date is given by the Court, or to timely request an extension and/or move for additional time, may result in the action being disposed.

V. JUDICIAL SUBPEONAS

A. **Judicial Subpoenas:** Parties seeking a judicial subpoena must include the documents for review **and** an attorney affirmation giving the reasons why a judicial subpoena is necessary. The documents must be emailed as attachments to sfc-part35-clerk@nycourts.gov with only the parties in the action copied.

VI. TRIALS

A. **Pre-Trial Conference:** Once a trial ready case is assigned to the Court, a pre-trial conference will be scheduled. Parties must be prepared to discuss the case fully, including their position on liability and damages, all prior decisions, any and all settlement attempts, anticipated pre-trial rulings, the number of witnesses and their purpose, whether language interpreters or special accommodations will be needed and if applicable, be prepared to submit proposed jury instructions and verdict sheets.