

PART 4 RULES
SUPREME COURT – NEW YORK COUNTY
DEDICATED TRIAL DIVISION
JUSTICE FRANK P. NERVO

80 Centre Street – Courtroom 327
646-386-3580

No eating, drinking, or gum chewing in the courtroom, with the exception of water in a sealed container.

No reading newspapers or other material in the courtroom.

Those appearing before the Court are reminded of proper courtroom decorum and shall address all parties and court personnel respectfully. Do not at any time address the Court or jurors by first name, or with undue familiarity.

The court personnel are:

Associate Court Attorney -- Mr. Collins

Senior Court Clerk -- Ms. Crawford

Senior Court Officer -- Officer Vobis

The use of electronic equipment in the courtroom is prohibited. Only counsel seated at the counsel table, with permission of the Court, may use electronic equipment. All use by others, in the absence of explicit permission by the Court, is prohibited.

Ex Parte Communication. No *ex parte* communications, including telephone calls and requests for adjournments, are permitted, except as provided below.

Adjournments of Conferences. Requests for adjournments shall be made as follows. The parties may adjourn a preliminary conference *once* for no more than 21-days provided that such adjournment is made in writing and includes a stipulation signed by all counsel consenting to the adjournment before the date thereof. Counsel shall inform the Part Clerk of the adjournment. If the matter is e-filed, counsel shall inform the Part Clerk of the adjournment after uploading the signed stipulation to NYSCEF. Appearance by Counsel is not required once adjourned. Counsel are reminded that conferences are held on Fridays at 10:00am and, absent Court permission, conferences must be adjourned to a Friday. Further preliminary conference adjournments, and all adjournments of compliance or status conferences, will be granted only with prior permission of the Court. Counsel seeking a further adjournment must make such request in writing and provide an explanation underlying the request. If the matter is e-filed, the request for a further adjournment shall be uploaded to NYSCEF and the Part Clerk notified. If the matter is not e-filed, the request shall be made via first-class mail directly to the Part.

Submissions Directly to Part. After uploading a filing or other submission directed to the Part's attention to NYSCEF, counsel shall inform the Part via first-class mail of the same – this includes stipulations that counsel seek to have “so-ordered” and letters to Justice Nervo. If the matter is not e-filed, counsel shall provide the Part with a copy of the filing or submission as an enclosure to counsel's letter. Do not inform the Part of routine motion submissions, except for adjournments or withdrawals as provided herein.

Discovery Relief. Applications to resolve discovery disputes arising after a compliance conference has been held shall be made by order to show cause returnable in this Part, on notice to all counsel pursuant to CPLR § 2214(d) and 22 NYCRR 202.7(f), and before the note of issue date. This includes relief pursuant to CPLR §§ 3124 and 3126. Discovery disputes arising prior to a compliance conference may be made by motion. The Court will not entertain telephone conferences for discovery disputes.

Adjournments of Motions. Counsel shall inform the Part Clerk of any motion adjournments or withdrawals made prior to the return date. If the matter is e-filed, counsel shall inform the Part Clerk of the adjournment after uploading the signed stipulation to NYSCEF. Counsel seeking to adjourn a motion after the return date shall first obtain the Court's permission before submitting a signed stipulation adjourning the motion. Failure to inform the court of a motion's adjournment or withdrawal may result in an award of costs or penalty(ies) authorized by CPLR § 3126.

Motion Status. The status of a motion, including the date a decision is anticipated, will **not** be provided. Counsel are prohibited from so inquiring.

Note of Issue. The deadline to file the note of issue will be set at the first conference practicable; extensions of this deadline shall be brought by order to show cause, on notice to all counsel and returnable in this Part, as soon as counsel becomes aware that the deadline is impracticable. In no event shall such order to show cause be made after the note of issue deadline. There shall be no further discovery after the note of issue date. Failure to timely file a note of issue may result in the dismissal of the action. A party may seek to vacate a prematurely filed note of issue only by order to show cause returnable in this Part, on notice to all counsel, within 20 days from the service of a copy of the note of issue, pursuant to 22 NYCRR 202.21(e).

Copies of Orders. Orders or decisions shall be obtained from the County Clerk's office, or NYSCEF if the matter is e-filed. Courtroom personnel will not provide copies.

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The Court will determine whether the trial will be bifurcated prior to opening statements.

At time of assignment counsel are to provide the Court with:

PROPOSED JURY INSTRUCTIONS AND REQUESTS TO CHARGE;

MARKED PLEADINGS (including copies of the compliant/answer/counter-claims/cross-claims/bills of particulars etc.);

COPIES OF MEDICAL NARRATIVES EXCHANGED;

COPIES OF ALL CPLR § 3101(d) EXCHANGES;

ALL EXHIBITS TO WHICH THERE IS NO OBJECTION, MARKED IN ADVANCE.

Motions *in limine* shall be made at counsel's first appearance in Part 4. Any memorandums of law shall be submitted at that time.

There shall be no "speaking objections" in jury trials.

Any documents or other material left in the courtroom post-trial, post-hearing, or otherwise, will be discarded unless retrieved within ten (10) days of the close of the proceeding.