

JUSTICE ANTHONY CANNATARO
PART 41 - PRACTICES AND PROCEDURES

Supreme Court of the State of New York
111 Centre Street, Courtroom 490
New York, NY 10013

Part Clerk/Courtroom Phone: 646-386-3816
Chambers Phone: 646-386-5429

Principal Law Clerk: Mr. Michael Faleck, Esq.

mfaleck@nycourts.gov

646-386-5542

Assistant Law Clerk: Ms. Alice Goldenberg, Esq.

agoldenb@nycourts.gov

646-386-3963

Oral Argument on Motions: Wednesday mornings at 9:30am (or as otherwise scheduled by the Court)

Pre-Trial Conferences: As scheduled by the Court

Preliminary, Compliance, and Status Conferences: Wednesday afternoons at 2:15pm (or as otherwise scheduled by the Court)

GENERAL

1. All parties or their counsel must familiarize themselves with these Practice Rules and the Rules of the Justices of the Supreme Court, Civil Branch, New York County (the “Local Rules”).
2. Counsel and litigants (represented or self-represented) are advised that Justice Cannataro, his Law Clerks, and Part Clerk will not engage in any *ex parte* communications.
3. The Part Clerk is unable to accept deliveries any day except Wednesday. For deliveries on any other day, please come to 109-113 White Street.
4. Counsel must notify the Court, as soon as practicable, by conference call or e-mail, of any settlement or resolution of active cases or pending motions, so as to avoid the unnecessary use of Court resources on matters that are resolved or will imminently be resolved.

COMMUNICATIONS TO PART 41

1. **Justice Cannataro does NOT accept any letters, documents, or papers by e-filing, mail, or facsimile unless expressly permitted by these Practice Rules or by prior approval of the Court.**

2. There will be **no** *ex parte* communication with the Court. Justice Cannataro's Law Clerks will accept phone calls with all parties on the line.
3. Do not copy the Court on letters exchanged between parties.
4. Part 41 is a **pure e-filing part**. Working copies of motions/documents are not required. **Please do not send courtesy copies of any documents that were e-filed**, with the following exceptions:
 - a. **Documents requiring Justice Cannataro's signature, including proposed orders and stipulations, must be e-filed, AND the original must be sent to Justice Cannataro by either mail or delivery service** (e.g., proposed/settled orders, stipulations, or transcripts to be "so-ordered");
 - b. Proposed orders to show cause.

ADJOURNMENTS

1. All adjournments (motions, conferences, trials) require prior court approval. *Ex parte* applications for adjournments will **not** be considered.
2. Requests to **adjourn a conference** shall be directed by phone to Chambers or by e-mail to Judge Cannataro's Law Clerks. Conferences will only be adjourned **by stipulation**. The parties must first consult with the Part Clerk before selecting a new date for the conference. Applications to adjourn a conference shall be made **at least 24 hours** in advance of the scheduled conference. Parties may adjourn a conference **no more than two times**, and for no more than **a total of three (3) months**.
3. Requests to **adjourn a motion that is scheduled for oral argument** shall be directed by phone to Chambers or by e-mail to Judge Cannataro's Law Clerks. Motions will only be adjourned **by stipulation**. The parties must first consult with the Part Clerk before selecting a new date for oral argument. Applications to adjourn a motion should be made **at least 48 hours** in advance of the oral argument.
4. To **adjourn a motion that is in the Submissions Part** (Room 130):
 - a. If the parties wish to adjourn the motion for less than sixty (60) days, the parties may adjourn **by stipulation** without an order from the Court. The stipulation must be e-filed and filed in the Submissions Part on the return date of the motion.
 - b. If the parties wish to adjourn the motion for more than sixty (60) days from the original return date, then the parties must submit a stipulation of adjournment to the Court for approval.

- i. Parties must deliver the proposed stipulation to the Court **by e-filing.**
 - ii. If approved, the “so-ordered” version of the stipulation will be e-filed, so that the parties may retrieve the signed stipulation from the electronic filing system and present it to the Submissions Part on the return date.
5. Requests to adjourn mediation dates in Mediation I and/or jury selection dates in Trial Part 40 should be made by contacting the appropriate part clerks. Justice Cannataro and his Part Clerk do not administer those calendars.
6. To **adjourn a hearing or trial,** the parties must contact the Part Clerk at 646-386-3816 on a **conference call with all parties** on the line. Applications for adjournments must be made **at least 48 hours** in advance of the scheduled hearing or trial.
7. All Court approved stipulations to adjourn must be e-filed by the parties.

CONFERENCES AND DISCOVERY DISPUTES

1. Only attorneys thoroughly familiar with the case may appear for a conference. The attorneys should bring signed copies of all prior decisions, orders and stipulations (both substantive and discovery-related) to the conference. The parties should bring any motions pending in the Motions Submission Part or which are *sub judice* to the attention of the Part Clerk.
2. **Counsel and litigants must follow the directions below when appearing for a preliminary, compliance, or status conference.**
 - a. Counsel for all parties must consult prior to a preliminary or compliance conference about: (i) the resolution of the case, (ii) discovery and any other issues to be discussed at the conference, and (iii) the use of alternative dispute resolution to resolve all or some of the issues of the litigation.
 - b. Counsel must fill out the appropriate conference form (preliminary conference order, or compliance conference order/stipulation form) prior to appearing at the bench. Any disputes will be resolved by the Court.
 - i. On the conference form, please write legibly. Indicate the names, addresses, and telephone numbers of all counsel appearing at the conference. Number the pages (e.g., 1 of 3, 2 of 3). At the top of page 1 of the Compliance Conference Order, please indicate whether this is the 1st, 2nd, or 3rd compliance conference. Use specific cut-off dates (e.g. “on or before December 31, 2015”). Do not use open-ended dates (e.g. “within 45 days,” etc.).

- c. After filling out the appropriate form, counsel must check-in with the Part Clerk. At check-in, please hand in your conference form to the Part Clerk. The Part Clerk will then call your case when the Court is ready for your conference.
3. Conference calls are scheduled by the Court as needed. Parties wishing to schedule a conference call with the Court should do so by contacting Chambers at 646-386-5542 or 646-386-3963 to arrange a mutually convenient time and date. If the parties would like to speak by telephone with one of the law clerks, ALL parties must be on the phone before placing the call to Chambers.
4. Unless otherwise ordered, interrogatories are limited to 25 in number, without subparts, and are limited to the following topics: names of witnesses with knowledge of information material and necessary to the subject matter of the action; computation of each category of damage alleged; and the existence, custodian, location, and general description of material and necessary documents. At the conclusion of other discovery, and at least 30 days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served.

MOTION PRACTICE

1. Substantive motions with opposition will be scheduled for oral argument for a Wednesday after submission. **All papers must be e-filed at least three (3) business days prior to the oral argument date.** Motions without opposition are generally not scheduled for oral argument.
2. Summary judgment motions must be filed **within sixty (60) days** of filing the note of issue. Counsel's affirmation in support must include the note of issue filing date.
3. Orders to show cause with requests for temporary restraining orders, including requests for a temporary stay of an action, will generally not be heard *ex parte*. See 22 NYCRR 202.7(f).
4. Any attorney seeking to withdraw from a case must file a motion by order to show cause where the granting of such application would result in the litigant being self-represented. The court will not accept a stipulation where the litigant consents to proceeding *pro se*. Where the litigant is merely substituting attorneys, a stipulation consenting to change attorneys is required and a motion need not be brought.
5. Except for discovery motions, no prior permission is required before making a motion. Discovery-related motions are strongly discouraged. Prior to making a discovery motion, parties must contact Chambers to arrange a mutually convenient time and date for a conference call. If a party has made a discovery motion, a conference will be scheduled

for the same date as oral argument and will be conducted prior to counsel being heard on the motion. All discovery-related motions will be heard on Wednesdays at 2:15 p.m.

6. Requests for *pro hac vice* admission should be made by stipulation, if possible.
7. The first page of all motion papers must contain the motion sequence number in the upper right-hand corner.
8. Unless advance permission is granted by the Court, memoranda of law and affirmations/affidavits shall not exceed 25 pages. Reply affirmations shall not exceed 15 pages. All submissions must be in 12-point font, double spaced, and with one-inch margins.
9. All memoranda of law must include a Table of Contents and Table of Authorities. Citations to cases must be from the Official Reports and secondary reporters are not required.
10. Each exhibit must be e-filed under its own document number and must include a short label identifying the nature of the exhibit (e.g., Complaint, Contract dated 1/1/15, etc.).
11. Reference to deposition testimony or any other voluminous exhibit annexed to a motion must include pinpoint citations.
12. If there is a discrepancy between the relief sought in the notice of motion and the relief sought in the supporting papers, the notice of motion is controlling.
13. Similarly, requests for commissions for out-of-state depositions should be made by stipulation, if possible.
14. Applications to seal documents shall include the nature of the document, reason for the sealing request and “good cause” therefor (22 NYCRR 216.1). The Court will consider the application to seal documents only by order to show cause or notice of motion. To e-file documents under seal, please follow the procedures set forth by the County Clerk, <http://www.nycourts.gov/courts/1jd/supctmanh/EF-Protocol-30916.pdf>.

ELECTRONIC FILING & E-TRACK

1. All cases in Part 41 are required to be e-filed through the New York State Courts E-Filing (NYSCEF) system. Attorneys are expected to familiarize themselves with NYSCEF procedures at <http://iapps.courts.state.ny.us/nyscef/Login>. For more information on e-filing rules, parties may also visit: <http://www.nycourts.gov/courts/1jd/supctmanh/e-filing.shtml>, or may reach out by phone at 646-386-3610 or by email at newyorkef@nycourts.gov.

2. All e-filed documents must be text-searchable. The submission of documents containing hyperlinks is strongly encouraged.¹
3. “eTrack” is a case tracking service that enables parties to track active Civil Supreme Court cases and to receive notice of scheduled appearances. **All parties or their counsel must be registered for the eTrack service for all Part 41 cases.** To register or log-in please visit: <http://iapps.courts.state.ny.us/webcivil/etrackLogin>.

TRIALS/EVIDENTIARY HEARINGS

1. Prior to the start of trial, please supply the Court with the following:
 - a. Marked pleadings and bills of particulars.
 - b. All **prior decisions** in the case.
 - c. Any notices to admit, with responses.
 - d. Copies of transcripts of **depositions** intended for use at trial.
 - e. In the case of a jury trial, proposed **jury verdict sheet**.
 - f. A list of **all** requested **PJI charges** from the most current volume of the PJI. You may list the section by number and title only, if it does not call for any characterization of the evidence or the contentions of the parties. **If the section does call for a characterization of the evidence or contentions of the parties, you must supply the proposed language in writing. If you are requesting a change, the proposed language must be in writing along with appropriate citations. Please provide copies of any cases upon which you rely for charge language.**
 - g. A short (one or two lines) **summary** of your party’s claims to be used by the Court in its preliminary instructions to the jury before opening statements.
 - h. Courtesy copies of **cases** and **authorities** relied upon for *in limine* or other applications.

¹ See Statement of Procedures Governing Memoranda of Law and Certain Other Documents in Hyperlinked and Bookmarked Format in Electronically Filed Cases, available on page 13-15, <http://www.nycourts.gov/courts/1jd/supctmanh/EF-Protocol-8114.pdf>.

- i. Copies of any **statutes, codes, or rules and regulations** which are pertinent to the case.
 - j. A list of **proposed witnesses**. If a witness needs an **interpreter**, please indicate the language and any dialect.
 - k. Each attorney's business card and a number where they can be reached during trial.
2. Parties are strongly encouraged to stipulate to all facts and documents not in dispute prior to trial. Have agreed-upon documents, photographs and other exhibits pre-marked into evidence by the court reporter outside the presence of the jury.
3. It is the duty of counsel, not court personnel, to make sure all subpoenaed documents have arrived in the subpoenaed records room at 60 Centre Street.
4. Trial memoranda of law are to be submitted at least seven (7) days prior to the date of trial, unless otherwise advised by the Court.
5. All requests to set up audiovisual equipment in the courtroom shall be directed to Chambers.