

PART RULES (updated June 2020)

Hon. Lynn Kotler, J.S.C.

General IAS Part 8, 80 Centre Street, Room 278

Part Clerk: Steven Carney, scarney@nycourts.gov, 646-386-3572

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Principal Court Attorney: Eric Wursthorn, Esq., ewursth@nycourts.gov

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1. General

- a. **Unless specifically directed otherwise, there are no in-person appearances in Part 8.**
- b. *Ex parte* communications are not permitted. Communications regarding procedural questions or issues should be directed to the part clerk. Communications regarding substantive questions and/or issues may be emailed to the court attorney provided that all sides are carbon copied.
- c. Letters or emails seeking affirmative relief will not be considered and will be rejected.
- d. Do not carbon copy the court on correspondence between counsel.
- e. The court will not make rulings via telephone.

2. Conferences

- a. Parties should meet and confer and memorialize all outstanding discovery in a written stipulation signed by all sides. Upon doing so, the parties may present the stipulation to the court to be so ordered by filing on NYSCEF under the appropriate document type.
- b. If the parties have a dispute that they are unable to resolve despite good faith efforts to do so, they may request a virtual conference with the court via written correspondence outlining the issue and the parties' positions or they may make a motion as per the CPLR without the need for prior court approval.

3. Orders to Show Cause

- a. All Orders to Show Cause will be heard on Tuesdays 10:00 a.m. on the return date, unless otherwise provided for by the court. If a party seeks a temporary restraint in an Order to Show Cause, they **MUST** provide proof that their adversary was notified about the application and the time and date that the application will be presented for signature. The court may, in its discretion, schedule a hearing on the TRO application virtually or set a deadline to submit written opposition to the TRO request.
- b. All Orders to Show Cause must first be processed by the Ex Parte Motion Office. A movant should first contact that office to ensure that the Order to Show Cause has been processed and submitted to chambers before inquiring with the Part about the status of the Order to Show Cause.

4. Motions

- a. All Notices of Motion (but not Notices of Cross Motion) are returnable in the Motion Support Office Courtroom. Adjournments of those motions are to be addressed to Motion Support, not the Part, unless the parties are seeking to adjourn a motion submission date more than sixty days after the original return date.
- b. Motions will be submitted without argument or rescheduled for oral argument on a case-by-case basis.
- c. Advance permission to bring any motion is not required.
- d. "Courtesy" or working copies of e-filed motions are not required and should not be delivered to the part.

- e. Letters should not be sent to the Court concerning a motion after said motion has been marked submitted (see Rule 14[c]).

5. Adjournments

- a. A court appearance may be adjourned on consent, provided all parties who have appeared in the action sign a stipulation to that effect and deliver it to court via fax, email or filing on NYSCEF by 2:00 p.m. the day before the appearance is scheduled. The stipulation is still subject to court approval and it must include: 1) the reason for the adjournment, 2) the date the case was last on, and 3) the date by which the Note of Issue must be filed. If there is no consent, the scheduled date must be honored, and counsel must appear for an oral application for the adjournment.
- b. Please clear the new adjourn date with the Part Clerk before filing the stipulation.

6. ADR

- a. If the parties have conferred and are amenable to submitting their case to mediation, they should email Mr. Wursthorn with the following information: [1] nature of case; [2] substantive issues in dispute; [3] any offers and demands; [4] if a personal injury action, nature/extent of personal injuries sustained. The court may refer the matter to mediation in its discretion and subject to the mediation part's approval only upon a showing that mediation would be fruitful in the case.

7. Note of Issue

- a. The note of issue may be filed, and a future compliance conference dispensed with, provided all parties who have appeared in the action stipulate in writing that all discovery has been completed. This stipulation must be sent to the court via fax, email or filing on NYSCEF by 2:00 p.m. the day before the appearance is scheduled.

8. Trials

- a. Trials are scheduled to proceed day-by-day until completed.
- b. Once a trial is assigned to Part 8, counsel are required to serve and submit the following:
 - i. marked pleadings;
 - ii. the bill of particulars;
 - iii. a witness list;
 - iv. expert disclosures;
 - v. pretrial memoranda (if applicable);
 - vi. proposed jury instructions (if applicable);
 - vii. proposed jury verdict sheet (if applicable); and
 - viii. a one paragraph summary of the parties' contentions.
- c. Parties must have copies of exhibits for the court and for each adversary.
- d. All parties are encouraged to have their exhibits pre-marked by the court reporter.