

PART RULES FOR THE HON. JAMES W. HUBERT

E-Filing Rules and Protocol

All parties should familiarize themselves with the statewide [E-Filing Rules](#) (Uniform Rule §§ 202.5-b and 202.5-bb – available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)) and the [Westchester County E-Filing Protocol](#) available at-

<http://www.courts.state.ny.us/courts/9jd/efile/WestchesterCountyJointProtocols.pdf>

General questions about e-filing should be addressed to the E-Filing Resource Center at 646 386 3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us)

Specific questions relating to local procedures should be addressed to **the Civil Calendar Office (914) 824-5300**.

Electronic Filing

All Civil actions in Judge James W. Hubert’s Part are to be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

Working Copies

A court may require the submission of “working copies” of electronically filed documents. See Uniform Rule § 202.5-b(d)(4).

This Part does not require working copies.

This Part does not require working copies but may request working copies in specific instances.

This Part requires working copies for all electronic submissions.

This Part requires working copies for:

- motion submissions
- proposed orders to show cause
- proposed orders/judgments
- stipulations
- transcripts
- letters

Working copies shall be delivered to:

- Chambers [For access, please call: 914-824-5790]  
 Part Clerk [specific types listed here]  
 [Other office] [specific types listed here]

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the back cover page of the submission and comply with other requirements set forth in the Westchester County Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be delivered no later than 5:00 p.m. on the first business day following the electronic filing of the document on the NYSCEF site.

### Hard Copy Submissions

Part will reject any hard copy submissions in e-filed cases unless those submissions bear the Notice of Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile).

### Scheduling

Counsel/parties should address questions about scheduling appearances or adjourning appearances to the Part Clerk, Barbara Olsen, at (914) 824-5363. Do not contact Chambers regarding such issues. All requests for adjournments must be made with the consent of all opposing counsel and, if approved by the Court, confirmed by a signed Stipulation of all counsel.

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.
2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with the Court or with the Law Clerk.
3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.

### Motions

Motions are to be returnable on Thursday at 9:30 a.m. motions made returnable at any other time, absent prior permission of the Court, will be adjourned by the Part Clerk to the next available Thursday.

Adjournments are governed by Part Rules.

Motions are submitted without oral argument, unless otherwise directed by the Court.

Reply papers are not permitted, unless: (a) the right of reply is obtained by service of a notice of motion in accordance with CPLR 2214[b]; or (b) expressly permitted by the Court. Sur-reply

papers are not permitted. Any unauthorized papers will not be read.

A copy of all stipulations discontinuing an action where a motion remains pending must be submitted to the Court.

All papers must comply with the applicable provisions of the CPLR and with the Part Rules. In addition, the font size of text and footnotes must be no smaller than 12 point. Papers which do not comply may be rejected.

All exhibits shall be separately tabbed. In the event that multiple affidavits or affirmations are submitted in support of a motion under the same legal back, each such exhibit shall be accompanied by a clearly discernible side or bottom tab containing the last name of the affiant.

### **TRIAL PRACTICE RULES**

The following Trial Practice Rules shall be complied with in all trials and hearings assigned to Justice Hubert:

A. Trial Preparation: Prior to the commencement of the trial or hearing, counsel shall ascertain the availability of all witnesses and subpoenaed documents. Plaintiff's counsel shall request that the Part Clerk requisition the County Clerk file in the case to the courtroom as soon as possible after the assignment of the case to this Court. In addition, counsel for any party or any self-represented party who has issued subpoenas for the production of records shall request that the Part Clerk requisition all subpoenaed documents from the file room.

B. Interpreters and Special Services: Upon reporting to the Court for a trial or a hearing, counsel and any self-represented party shall **immediately** advise the Part Clerk if the services of a foreign language interpreter are required for any party or witness, or if any special services are required for any party or witness who is hearing-impaired or who suffers from any other disability. Similarly, the Part Clerk shall be **immediately** informed if there is a need for an easel, blackboard, shadow box, television or any other trial aid.

C. Pleadings and Submissions Due Immediately Upon Appearance: Immediately upon being assigned to this Court for a trial or hearing, counsel for each party, including the Law Guardian, if any, and any self-represented party, shall report to the Part Clerk, or in her absence, the Law Clerk. At that time, counsel for each party and each self-represented party shall submit the following to the Court:

1. A statement of the estimated length of trial.
2. Marked pleadings and all bills of particulars.
3. A list of all witnesses who may be called at trial, including any known, potential rebuttal witnesses.

4. A list of all exhibits the party expects to use at trial, indicating whether such exhibits are stipulated for admission into evidence or are marked only for identification.
5. A written stipulation governing all facts that are not in dispute.
6. In all matrimonial actions, an updated net worth statement and a statement of proposed disposition.
7. A copy of any statutory provisions in effect at the time the cause of action arose, upon which any party to the action relies.
8. All expert witness reports relevant to the issues.
9. All reports, transcripts of examinations before trial and written statements which may be used either to refresh a witness' recollection or for cross-examination.

D. Marking of Exhibits: After filing the above-listed submissions with the Court, counsel shall meet with the assigned Official Stenographer to pre-mark all exhibits for identification. Any exhibits whose admission is agreed to by the parties shall be pre-marked for admission.

E. Conference: Immediately prior to the commencement of the trial, the Court shall conduct a brief conference with all counsel and self-represented parties, to discuss preliminary matters. At this conference, all counsel and self-represented parties shall be prepared to:

1. Advise the Court as to all anticipated disputed issues of law and fact, and provide the Court with citations to all statutory and common-law authority upon which they will rely.
2. Stipulate to undisputed facts and the admission of clearly-admissible documents, records and other exhibits.
3. Alert the Court to any anticipated in limine motions or evidentiary objections which they believe will be made during the trial.
4. Provide the Court with a copy of all prior decisions and orders which may be relevant to any in limine applications or objections.
5. Discuss scheduling, as well as the number of witnesses to be called at trial, any anticipated problems regarding the attendance at trial of any party, attorney or witnesses, and any other practical problems which the Court should consider in scheduling.

6. Alert the Court as to any anticipated requests for a jury instruction relating to missing witnesses or evidence.
7. Alert the Court as to any anticipated request pursuant to CPLR Article 16 for apportionment as to an allegedly culpable non-party.
8. Supply a proposed verdict sheet and request to charge.

F. Copies of Transcripts: If any part of a transcript of an examination before trial or other recorded proceeding will be read as evidence-in-chief, the proponent of the transcript shall provide a complete copy of it to the Court and all other counsel or self-represented parties, well in advance of the time that it shall be read, with citations to the page and line numbers for all portions to be read, so that all objections may be addressed by the Court prior to the proposed reading.

G. Copies of Exhibits: Upon the admission of an exhibit at trial, the proponent of the exhibit shall provide a complete copy of it to the Court.

H. Addressing the Court: Any counsel or self-represented party who is raising an objection, presenting an argument or otherwise addressing the Court, shall stand while doing so, or shall not be recognized by the Court. All objections shall be made by stating the word “objection”, together with up to three more words identifying the generic ground for objection, such as “hearsay”, “bolstering”, “leading” or “asked and answered”. If it is believed that argument on an objection is necessary, any counsel or self-represented party may ask permission to approach the bench. Keep in mind that any counsel or self-represented party will be given the opportunity to make a full record of his or her position.

I. Courtroom Behavior: All remarks shall be directed to the Court. Comments shall not be made to opposing counsel or self-represented parties. **PERSONAL ATTACKS UPON PARTIES OR COUNSEL SHALL NOT BE TOLERATED AND SHALL RESULT IN THE IMPOSITION OF SANCTIONS AS DETERMINED BY THE COURT TO BE WARRANTED UNDER THE PARTICULAR CIRCUMSTANCES.** Do not attempt to “talk over” an adversary; only one person shall speak at a time. Simple requests, *e.g.*, a request for a document or an exhibit, shall be accomplished in a manner which does not disrupt the proceedings or an adversary. Ask for permission to approach the bench if a significant discussion with an adversary is required, such as a proposed stipulation. There shall be no “grandstanding” in the presence of the jury, *e.g.*, making demands, offers or statements that should properly be made outside of the presence of the jury.

J. Use of Exhibits: Do not show anything, including an exhibit or proposed exhibit, to a witness without first showing it to all opposing counsel and self-represented parties. If any counsel or self-represented party believes that this procedure will compromise his or her trial strategy, he or she shall first request a pre-offer ruling outside of the presence of the jury.

K. Summation Exhibits: Any counsel or self-represented party who intends during summation to use any type of demonstrative exhibit not marked into evidence must advise the Court and all other counsel and self-represented parties of that intention at the pre-charge conference. Failure to comply with this rule shall result in an order precluding the use of such exhibit during summation.

L. Examination of Witnesses: Do not approach a witness without permission of the Court. The questioning counsel or self-represented party shall allow the witness to complete his or her answer to a question before asking another question. Do not interrupt a witness in the middle of an answer unless it is totally unresponsive, in which event a ruling from the Court shall be requested.

M. Jury Charges: In all jury trials, a complete list of requests to charge shall be submitted to the Court immediately preceding the commencement of trial, with copies to be provided to all other counsel and self-represented parties. If a requested charge is drawn from the current Pattern Jury Instructions (PJI), only the PJI number need be submitted. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedents. In addition such proposals shall be submitted on a computer disc in a format convertible to Word Perfect or emailed to the Court's law clerk at [Jalegria@courts.state.ny.us](mailto:Jalegria@courts.state.ny.us). At the final charging conference, if marshaling of the evidence is required as to a particular jury charge, counsel and all self-represented parties shall provide the Court with the proposed facts which they believe should be presented to the jury.

N. Verdict Sheet: At the commencement of the trial, counsel for the parties and any self-represented parties shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all other parties. The verdict sheet shall be in a final, typewritten form which may be given to the jury. In addition the proposed verdict sheet(s) shall be submitted on a computer disc in a format convertible Word Perfect or emailed to the Court's law clerk at [Jalegria@courts.state.ny.us](mailto:Jalegria@courts.state.ny.us).

O. Post-trial submissions: Unless otherwise directed by the Court, in accordance with the schedule set by the Court at the conclusion of a bench-trial or hearing, the parties shall jointly submit a trial transcript, and each party shall prepare and submit a post-trial memorandum. Factual arguments set forth in the memorandum shall be supported by citations to the trial transcript, and legal arguments shall be supported by citations to relevant statutes or case law.

P. Check-in: At the start of each day of trial, all counsel and self-represented parties shall check in with the Part Clerk so that she will be aware of your presence.

Q. No Communication with Jurors: In order to maintain the appearance of total impartiality, once the jury has been selected no one is to communicate in any form at any time with any juror. This prohibition includes both verbal and non-verbal communication.

