

## **Justice Thomas Feinman**

Part 5  
100 Supreme Court Drive  
Mineola, N.Y. 11501

Law Secretary: Greg Fishkin  
Secretary: Donna-Marie Craine  
Courtroom Clerk: Eric Justvig  
Chambers: (516) 493-3188  
Courtroom: (516) 493-3191

Courtroom: Located on the 4<sup>th</sup> Floor  
Chambers: Located on the 4<sup>th</sup> Floor

### **Courtroom Appearances, Conduct and Demeanor.**

Calendar call is at 9:30 AM. Counsel must first check in with the Clerk of the Part, who is located in the courtroom on the 4<sup>th</sup> floor.

There shall be no gum or candy chewing in Court. All cell phones shall be turned off. Proper attire is required. Counsel shall remove overcoats prior to approaching the well.

Only counsel with full knowledge of the case, its status and history shall appear. These directives apply to per diem counsel and attorneys of counsel as well.

### **Communications with Court**

The court will not accept any ex parte communication by telephone or letter from counsel or a self-represented party.

**Telephone Calls:** TELEPHONE CALLS TO CHAMBERS ARE PERMITTED BY COUNSEL ONLY. (No paralegals or secretaries).

**Adjournments:** Counsel must obtain permission from the court to adjourn motions, conferences Examinations Before Trial, and any court order. If all parties do not consent to the requested adjournment, an application shall be made no later than 3:30 p.m. Any adjournment requests left on the Chamber's Voice Mail shall be disregarded.

Adjournment requests of any item of discovery contained in the preliminary conference order, including Examinations Before Trial, must be with permission of the court.

Any adjournment request because of engagement of counsel on trial must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Part 125.

**Faxes:** Faxes to chambers are not permitted *unless* prior authorization is obtained. Should authorization be obtained, counsel must advise on the cover sheet who the authorization was obtained from. Should correspondence be faxed to chambers, upon authorization, copies of the correspondence shall be simultaneously faxed and mailed to all counsel.

Only correspondence signed by an attorney, upon authorization, may be faxed to chambers. No additional papers, such as pleadings, motions, orders to show cause, or any other requests for relief and replies shall be faxed to chambers.

*No excessive faxes:* There shall be no more than five(5) pages faxed to chambers provided there is permission by the Court to send the fax. All unauthorized faxes shall be disregarded.

**Correspondence:** All correspondence must be signed by an attorney.

### **Motions**

No permission is necessary from the Court to make a motion.

All writs, motions, petitions, and orders to show cause are to be made returnable at 9:30 AM on any day of the week, and are **on submission only**. Therefore, there shall be no appearance required or oral argument of motions, *unless* specifically requested by the court.

Motions brought pursuant to CPLR sections 3211, 3212, or 3213 shall not automatically stay disclosure.

**Exhibits:** All exhibits must be clearly tabbed and paginated. No exhibits shall be double sided. Mini-scripts are not accepted. Motions not consistent with this rule shall be rejected.

**Adjournments:** All inquiries concerning adjournment of motions shall be directed to chambers (516) 493-3188 and shall be made prior to 3:30 p.m. Counsel must request permission from chambers to adjourn any motion.

**Settled or Withdrawn Motions:** The Court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice.

**Electronic Filing:** This Part requires working **hard copies** for all motions, affirmations, exhibits, affidavits of service, memorandums of law, and any other items relative to the motion, upon full submission. Working copies shall be delivered on or before the submission date. No motion shall be fully submitted until all hard copy submissions have been provided.

### **Order to Show Cause**

Any party seeking a stay and/or temporary restraining order, (TRO), **must contact chambers** to obtain a date in which to present the Order to Show Cause. All said applications are to be made returnable at 9:30 a.m.

Any party seeking a stay and/or TRO must comply with 22 NYCRR 202.7(f).

Pursuant to 22 NYCRR 202.7(f), you are required to provide adequate notice of the requested relief to all interested parties and provide an affirmation to the court attesting to same. “[T]he affirmation must demonstrate that a good faith effort has been made to notify the party against

whom the temporary restraining order [and/or stay] is sought of the time, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application.” (*Id.*)

The adequacy of the notice provided by you to all interested parties can only be determined on a case-by-case basis but every effort should be made to provide notice promptly and thoroughly. Thus, if possible, both oral and written (e.g., fax or e-mail) notice should generally be pursued and written notice should generally include a copy of this letter with a copy of the proposed Order to Show Cause.

### **Submission of Papers**

All incoming motions, cross-motions, writs, petitions or orders to show cause must be delivered to the Supreme Court Building, 100 Supreme Court Drive, **Room 186**, Mineola, New York, for entry and processing

### **Preliminary Conferences, Compliance Conferences and Certification Conferences**

All preliminary conferences will be held in the basement of the courthouse.

All compliance and certification conferences will be held in the courtroom located on the 4<sup>th</sup> floor, on Wednesdays, at 9:30 A.M. The Court will take the bench for conferences.

Compliance and Certification conferences will begin promptly at 9:30 A.M. All attorneys are expected to check in promptly at or before 9:30 A.M. The attorneys shall check in with the Courtroom Clerk.

All counsel appearing must be knowledgeable with all the facts, circumstances, history and status of the case. There are no exceptions to this rule for per diem counsel or attorneys of counsel.

All counsel shall appear for each and every conference, and are not excused from appearing without permission from the court.

Should there be a Trial in progress, compliance and certification conferences will be held in chambers, located on the 4<sup>th</sup> floor.

The attorneys are advised to call their adversary the day before the scheduled conference to confirm a prompt appearance.

Cases are conferenced in the order in which all attorneys on a matter are checked in. If the case is called and there is no appearance by 10:30 a.m., the Court will take the appropriate action against the non- appearing side, including marking the case off calendar, dismissing an action, striking an answer, or setting the matter down for an inquest.

**No adjournments of discovery as per Preliminary Conference Order shall take place without court permission. Counsel shall seek court permission before adjourning any deposition date in the Preliminary Conference Order.**

### **Requests for Adjournments.**

All requests for adjournments of preliminary conferences should be made to the DCM part.

All requests for adjournments of compliance and certification conferences should be made to the Law Secretary, (493-3188), on consent of all parties, prior to 3:30 P.M. the previous day. No adjournments will be granted without permission from the Court. Should the Court give permission to adjourn the conference, the adjournment must be confirmed by letter to the court. The correspondence shall be faxed to chambers, upon authorization. Copies of the correspondence shall be simultaneously faxed and mailed to all counsel.

### **Court-Ordered Examinations Before Trial, (EBT)**

All EBTs scheduled at the compliance or certification conference shall be held at the courthouse and may not be postponed with prior permission of the Court. If no permission is received, the deposition is not adjourned and must continue as originally scheduled.

### **Non-Compliance with Discovery Orders**

If there appears to be non-compliance with discovery orders, the parties should contact the Law Secretary, (493-3188), by phone before the next scheduled conference date, or as soon as reasonably practical.

### **Settlements**

If an action is settled, discontinued, or otherwise disposed, prior to being placed on this Court's calendar, or the Trial Court's calendar, counsel shall immediately notify chambers by telephone and forward a confirming letter to chambers.

### **Trial Part Rules**

1. ***Motions in Limine.*** On the first appearance in the Part for trial, any party intending to make a motion in limine shall submit a brief written affirmation setting forth the nature of the application and any supporting statutory or case law. The party shall furnish the Court with an original and two copies and provide counsel for all parties with a copy. There shall be a separate affirmation for each motion in limine.
2. ***Pre-marking Exhibits.*** On the first appearance in the Part for trial, each party shall furnish the Court and all other parties with a preliminary list of exhibits which it is his or her intent to offer into evidence. The exhibits shall be pre-marked for identification or, upon consent, into evidence.

All hospital records, and other items for identification, or in evidence, must be paginated before use in the trial.

3. ***Expert Witnesses.*** On the first appearance in the Part for trial, and if not otherwise pre-marked, each party shall, with respect to each expert witness that party intends to call, submit a list identifying with specificity any record, report, photograph, film, computer animation, x-ray, CT scan, MRI, EMG study or similar item or items to which an expert witness is expected to make reference as supporting in whole or in part the opinion he or she will offer.

4. ***Requests to Charge.*** On the first appearance in the Part for trial, each party shall supply the Court with preliminary requests to charge. Charges from the Pattern Jury Instructions may be identified by number without necessity of reproduction unless a modification of the standard charge is requested in which case the modification is to be highlighted. Each party shall supply an original and three (3) copies to the court and furnish every other party with a copy. The preliminary requests may be supplemented, modified or edited as the trial progresses.

5. ***Proposed Verdict Sheet.*** On the first appearance in the Part for trial, each party shall supply the Court with a proposed verdict sheet. The proposed verdict sheet may be supplemented, modified or edited as the trial progresses.

6. ***Malpractice “Departures”.*** In cases involving claims of professional negligence, on the next trial session after a party rests, or such other time as the Court may direct, counsel for the defendant(s) shall furnish the Court, and counsel for the plaintiff, with a list of the departures from the standards of good and accepted practice which that counsel for the defendant asserts were testified to by its expert witness or witnesses. Where the testimony has been transcribed, page references will be required.