

Justice Thomas Feinman

Part 9

100 Supreme Court Drive
Mineola, N.Y. 11501

Law Secretary: Catherine Rizzo
Courtroom Clerk: Brian Clifford
Secretary: Donna-Marie Craine
Chambers: (516)493-3188
Courtroom: (516)493-3191

Courtroom: Located on the 4th Floor
Chambers: Located on the 4th 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 4th 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 familiar with 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).

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.

Correspondence: All correspondence must be signed by an attorney.

Motions

All movants shall provide the Court with self-addressed stamped envelopes for each party served with the 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.

Order to Show Cause: If there is an order to show cause which contains a stay which the parties cannot agree to extend until determination, then all counsel, or pro se parties must appear on the return date. Failure to appear shall be deemed consent to the continuation or elimination of the stay or temporary restraining order, as requested by the adversary counsel.

Request for Adjournments: Should all parties consent to adjourn a motion, counsel must call the Courtroom Clerk, (493-3191), and request the adjournment, on consent specifying who gave consent. All adjournments shall total no more than thirty days from original return date. Any subsequent requests must be approved by the Court.

When the parties cannot agree to adjourn a motion, such contested motion adjournments shall be telephone conferenced with the Law Secretary, (493-3188), at least one day prior to the return date.

Submission of Papers:

All incoming motions, cross-motions, writs, petitions or orders to show cause must be delivered to the Motion Support Office located in the Supreme Court Building, 100 Supreme Court Drive, **Room 186**, Mineola, New York, for entry and processing. Courtesy copies will be accepted by the Courtroom Clerk located on the 4th floor, and are not required.

All papers, (motions, cross-motions, responsive papers, etc.), must be submitted timely. The Court will not consider late papers. All motions, petitions, orders to show cause, and other appropriate requests for relief and replies shall include a self-addressed stamped envelope.

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 4th floor, on Wednesdays, at 9:30 A.M. The Court will take the bench for conferences.

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. Moreover, once counsel checks in with the clerk, they are to remain in the courtroom until the case is called.

Accordingly, counsel is directed to adjust their schedules so as to comply with these directives.

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.

Should there be a Trial in progress, compliance and certification conferences will be held in chambers, located on the 4th 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, the Court will take the appropriate action against the non-appearing side, including marking the case off calendar, dismissing an action, dismissing 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 4:00 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.

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. *Premarking 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. During opening statements, any party may refer to any pre-marked exhibit which has been admitted into evidence on consent.

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. *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, each party [plaintiff] shall furnish the Court and counsel for all parties with a list of the departures from the standards of good and accepted practice which that party asserts were testified to by its expert witness or witnesses. Where the testimony has been transcribed, page references will be required.