

Justice Alan J. Saks
Supreme Court of the State of New York
12th Judicial District-Bronx County
851 Grand Concourse Boulevard
Bronx, New York 10451

I.A.S. Part 10, Room: 415

Phone: (718) 618-1224, (718) 618-1285

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Clerk IAS Part 10: Lorraine Bishop - lbishop@courts.state.ny.us

Court Officer:

1. Motion Procedure

A. Applicable to Notice of Motion and Order to Show Cause

All papers must comply with CPLR **R2101**, **R2103** and **R2214**.

Tabs shall be used when submitting exhibits. If an annexed document is voluminous and only discrete portions are relevant, Counsel shall highlight the relevant sections of the document. All cited material shall be viewable without having to remove staples or binding.

Courtesy copies shall not be submitted.

Counsel are advised when submitting proposed orders or judgments to keep proposed orders or proposed judgments separate and apart from motion papers. Proposed orders or judgments incorporated within motion papers will be considered exhibits and treated as such.

Failure to appear at the call of any calendar may result in an inquest or dismissal pursuant to §202.27 of the Uniform Civil Rules for the Supreme Court and the County Court.

Counsel must advise the Court in writing as soon as practicable of all motions that have been resolved or are to be withdrawn.

B. Motions brought by Notice of Motion

Motions are returnable five days a week in the Motion Support Office, Room 217. All opposition and reply papers must be submitted at the Motion Support Office on the return date of the motion. Opposition and reply papers will not be accepted prior to the return date.

All non-disclosure motions will be deemed submitted on the return date and forwarded to Chambers. Stipulations of adjournment, compliant with the Rule 202.8(e)(1), submitted in Room 217 on the return or adjourned date of a motion, will be honored and the motion will be adjourned and kept in the Motion Support Office. If a non-stipulated application for adjournment is submitted, the motion and application will be forwarded to Chambers for a ruling. Counsel will be advised of the ruling in writing. Oral applications are not considered.

If oral argument is requested and granted, or directed by the Court, the motion will be adjourned for conference and oral argument in IAS Part 10. Counsel will be advised of the adjourned date in writing.

B. Disclosure Motions

No motion for substantive relief shall be joined with an application for discovery relief. Discovery related motions are heard by the Judge presiding in IAS Part 11.

C. Orders to Show Cause

Orders to Show Cause must comply with Uniform Rule 202.7(d) and be brought to the Motion Support Office from which they are forwarded to Chambers for consideration.

All orders to show cause are returnable on Mondays, except for court holidays, in IAS Part 10 at 9:30 A.M., unless otherwise indicated. Personal appearances are required.

Proof of service must be filed with the Clerk of IAS Part 10 by 9:30 A.M. of the return date. Non-compliance will result in denial of the order to show cause.

Stipulations adjourning an Order to Show Cause shall be filed with the Clerk of IAS Part 10 prior to the call of the calendar.

2. Inquiries

All inquiries should be made to the appropriate clerk's office, ***not*** chambers.

Motion Support Office: Room 217, (718) 618-1310.

Faxes to chambers are not permitted unless prior authorization is obtained.

E-mails are not permitted unless prior authorization is obtained.

Attorneys shall not call chambers during the lunch hour which is from 1 PM to 2 PM.

3. Infant Compromises and other Ex Parte Applications

Ex Parte applications are to be submitted to the Motion Support Office. After review of Infant Compromise submissions, Counsel will be notified of the scheduled appearance date by phone.

All proposed infant compromise orders shall contain the following language:

It is further Ordered that the Guardian shall, within thirty days of the deposit of the funds due the infant herein in the above designated bank(s), submit to the Clerk's Office, Room 217, a copy of the Certificate of Deposit issued by said bank.

The attorney's supporting affirmation shall set forth the policy limits of all available insurance.

Special instruction for structured infant compromises:

In addition to the usual and customary items required pursuant to C.P.L.R. Article 12, §§1207, 1208 and Uniform Rules for the New York State Trial Courts, Part 202, §202.67, there shall be submitted a Certificate of Reliability and Assurances. Additionally, there shall be a detailed affidavit demonstrating compliance with GOL §5-1702. Furthermore, all outstanding medical and hospital bills and payment thereof must be accounted for. Any medical and hospital bills paid for by Medicaid must be accounted for.

Any transcript of settlement on the record should be attached.

In a structured infant compromise, the plaintiff's attorney should retain an independent structure consultant to evaluate the proposals and protect the interests of the plaintiff. Plaintiff's counsel should ask defendant's counsel to have the defendant's structure consultant and plaintiff's structure consultant split the consulting fee, both halves to be paid by the defense.

The internal rate of return of the structure should be disclosed and contrasted with both a taxable and tax free rate of return.

There should be a supporting affidavit that the financial strength rating of the annuity issuer is either A+ or A++ by A.M. Best.

If the amount to be structured is more than \$500,000.00, the annuity should be split between multiple issuers to keep the each annuity under \$500,000.00, the protection limit of the N.Y. Life Insurance Guaranty Fund.

The supporting affidavit should state the name of the assignment company, and the name of the financial rating company (if any) that is guaranteeing the obligations of the assignment company.

Consider including a commutation rider in appropriate cases. Upon the plaintiff's death, a commutation rider liquidates all or portion of the remaining payments into a lump sum to pay any estate taxes.

If any portion of the settlement proceeds is invested in a taxable investment (e.g., a bank account), the order should include a provision authorizing the bank to issue a check payable to the appropriate taxing authority for any income taxes on the investment income if the plaintiff provides appropriate documentation, so additional court orders are not necessary for every payment of taxes.

Counsel may call chambers, (718) 618-1437, to obtain the Certificate of Reliability and Assurances form as well as a form for a proposed structured infant compromise order.

4. Summary Judgment

Pursuant to CPLR R3212(a), a motion for summary judgment shall be made no later than sixty days after the filing of the Note of Issue, except with leave of court on good cause shown.

5. Depositions

Requests for rulings are to be made to the Ex-Parte Justice, not the IAS assigned Justice.

6. Decisions

Copies of decisions are not mailed. They may be retrieved from the County Clerk's Office or www.bronxcountyclerksoffice.com.