

**COURT RULES OF JUSTICE JOSEPH J. MALTESE**  
**RICHMOND COUNTY SUPREME COURT, DCM PART 3**  
(As of April 1, 2011)

---

**Justice Joseph J. Maltese**  
**New York Supreme Court**  
**130 Stuyvesant Place, 3<sup>rd</sup> Floor**  
**Staten Island, NY 10301**  
**Tel.: 718-675-7860 Fax.: 718-720-6403**  
*Principal Law Clerk: Jeffrey M. Alfano*  
E-Mail: [jmalfano@nycourts.gov](mailto:jmalfano@nycourts.gov)

---

In addition to the Richmond County Supreme Court Uniform Civil Term Rules covering Preliminary Conference Orders, Compliance Conferences, Notes of Issue, Motions and the Jury Coordinating Part, the following part rules for cases pending before Justice Joseph J. Maltese in DCM Part 3 shall apply.

**Only attorneys** with full knowledge of the case and authority shall appear at conferences or motions.

**Conferences**

(1) **Adjournments** may be granted on consent, if all counsel agree, by a written stipulation faxed or e-mailed directly to chambers **with advance permission of the court.**

(2) If all discovery is completed prior to a certification conference, the parties may fax or e-mail a stipulation to court that all discovery is completed in lieu of an appearance. Attorneys will provide their fax numbers and e-mail addresses on the stipulation. The court will fax or e-mail a Certification Order and a new pre-trial/settlement conference date to the attorneys. **The Note of Issue shall be filed within 20 days** after a Certification Order is issued.

**Motions**

(1) All motions are returnable in Part DCM 3 at 130 Stuyvesant Place, 3<sup>rd</sup> Floor, Staten Island, NY 10301 on Fridays at 9:30a.m. All moving papers, including cross motions, must be filed with the Motion Support Clerk.

(2) **Electronically Filed Cases.** Parties are encouraged to utilize the e-filing system pursuant to the Uniform Rules for New York State Trial Courts §202.5-b.

(3) **Paper Copies of Motions.** Whether e-filing or paper filing is utilized, attorneys are required to serve a paper copy upon chambers of all motions, cross-motions, opposition, and replies, including memoranda of law and exhibits, before the return date set by the Clerk's Office.

(4) **Orders to Show Cause**, on DCM 3 cases, shall be brought directly to chambers for review. Fees, as required by law, must be paid to the County Clerk before bringing the OSC to chambers. In any application for temporary injunctive relief to include a stay or a Temporary Restraining Order (TRO), the attorney shall notify the party against whom the TRO or stay is sought, advising of the time, date and place of the application pursuant to the Uniform Rules for New York State Trial Courts §202.7(f). Call chambers to confirm availability.

(5) **Affidavits in support of or in opposition** to the motion shall contain factual information only, attested to by a party or person with actual knowledge of the facts and are limited to **20 pages**. Any law shall be cited in a separate **memorandum of law** and is limited to **20 pages**. Any **reply** is limited to **15 pages**. All documents shall be printed in **12 point font** and **double spaced** pursuant to the Uniform Rules for NYS Trial Courts §202.5(a). All exhibits shall have tabs.

(6) Discovery motions made before a Preliminary Conference (PC) Order is issued will be converted into a PC Order. After a PC Order is issued, counsel must first attempt to resolve discovery disputes. Counsel must request court permission to make a discovery motion after a PC Order has been issued.

(7) All motions will be decided on submission unless the court notifies the attorneys to be prepared for oral argument. Attorneys wishing to have their motions orally argued shall request it in their moving papers. If that request is granted, the court will notify all parties.

(8) **Adjournments.** Any requests for an adjournment of a motion shall be made in writing and be mailed or faxed to 718-720-6403 or e-mailed to [jmalfano@nycourts.gov](mailto:jmalfano@nycourts.gov) to be received in this court by 5:00 p.m. on the Monday before the Friday return date. Copies of the request for adjournment shall be made to all parties. Stipulations agreeing to the adjournment with proposed adjourned dates in writing is preferred. Any objection to the request for an adjournment shall be faxed or e-mailed to the previously listed fax number or e-mail address by 5:00 p.m. on the Tuesday preceding the Friday return date.

(9) All **motions for summary judgment** shall be made by the **60<sup>th</sup> day** following the filing of the Note of Issue.

**COURT RULES OF JUSTICE JOSEPH J. MALTESE**  
**RICHMOND COUNTY SUPREME COURT, DCM PART 3**  
(As of April 1, 2011)

---

**Justice Joseph J. Maltese**  
**New York Supreme Court**  
**130 Stuyvesant Place, 3<sup>rd</sup> Floor**  
**Staten Island, NY 10301**  
**Tel.: 718-675-7860 Fax.: 718-720-6403**  
*Principal Law Clerk: Jeffrey M. Alfano*  
E-Mail: [jmalfano@nycourts.gov](mailto:jmalfano@nycourts.gov)

---

**Trials Assigned to the Part**

(1) **Time to File Expert Witness Disclosure.** The parties shall file a notice of expert witnesses they expect to call at trial, in compliance with CPLR § 3101(d)(i) or (ii), at least **45 days** before the date when the case is first listed for trial by the Assignment Judge; or

If evidence or expert testimony is intended to contradict or rebut evidence on the same subject matter identified by another party under CPLR § 3101(d)(i) and (ii), the opposing counsel shall file an expert witness disclosure pursuant to CPLR § 3101(d)(i) and (ii) within **15 days** after the other party's disclosure, or at least **30 days** prior to the first date set for trial by the Assignment Judge.

(2) **Motions in Limine.** Any potential questions on evidence or procedural or substantive law not previously adjudicated shall be made at least **15 days** prior to the first date set for trial by the Assignment Judge by way of a written motion *in limine*. A written memorandum of law with citations is required. Any responding affidavit or cross motion shall be made within **7 days** of receipt of the original motion. A motion fee must be paid to the County Clerk prior to submissions of the motion. Copies of the motion with proof of overnight mail or e-mail or fax service upon opposing counsel shall be filed directly with chambers.

(3) **Frye/Daubert Motions.** Any motion not otherwise covered in a summary judgment motion to preclude an opposing expert witness, an expert witness' opinion or any opposing evidence shall be made at least **15 days** before the date first set for trial by the Assignment Judge. All motions are to be filed directly with this chambers after the appropriate fee(s) are paid at the County Clerk. The complete motion is to be filed directly with this trial court that is assigned the case for trial and not with the Assignment Judge. Any *Frye/Daubert* motion shall contain a written affirmation

from an attorney, and an affidavit from an expert witness attesting to why this court should preclude any expert witnesses or any part of their opinions or any evidence with specificity and with supporting data, journal articles or scientific texts attached. Frye/Daubert motions will not be entertained after jury selection, or be re-characterized as an oral Motion *in Limine*.

(4) **Trial Counsel.** Only trial counsel who are prepared to try the case shall appear in court.

(5) **Marked Pleadings.** Prior to trial, counsel shall furnish to the court marked pleadings pursuant to CPLR §4012.

(6) **Exhibits.** Counsel shall **pre-mark all exhibits** in the order which they intend to introduce them at trial. An **Exhibits List** shall be provided to the court prior to trial (see Court Clerk for the **Exhibits List Form**). Plaintiffs will number the exhibits and the defendants will letter their exhibits, unless there are more than one defendant, in which case the defendant's name and a sequential letter shall follow it. On the day of trial the exhibits and the list will be given to the court reporter who will officially mark them **before** trial.

(7) **Numbering Pages.** In any: **malpractice action, products liability or commercial matter** with voluminous documents, counsel shall number the pages (Bate stamp) of each record sequentially before making copies of same for opposing counsel and the court to ensure that everyone is reading from the same numbered page.

(8) **Witness Lists.** Counsel shall provide to the court a list of potential witnesses or in a medical malpractice case the specialty of the doctor in the order in which they intend to call them at trial. Counsel are strongly urged to disclose the names and specialties of doctors in medical malpractice cases. (See the Court Clerk for the **Witness List Form**.)

(9) **Proposed Jury Charges and Verdict Sheets.** All proposed jury charges and proposed verdict sheets shall be submitted to the court prior to the close of the plaintiff's case **in hardcopy and on a disk or as an attached electronic file by email**, to Principal Law Clerk Jeffrey M. Alfano: [jmalfano@nycourts.gov](mailto:jmalfano@nycourts.gov).

