

I.A.S Part 26
Commercial Division Part D

JUSTICE MARTIN E. RITHOLTZ
Courtroom 313
(718) 298-1093

COMMERCIAL DIVISION PART D RULES

Counsel should be familiar with *22NYCRR202.70-Rules* of the Commercial Division of the Supreme Court.

Pursuant to *22NYCRR202.70, Rule 1(a)*, counsel who appear in the Commercial Division must be fully familiar with the case in regard to which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients. Counsel should also be prepared to discuss any motions that have been submitted and are outstanding. Failure to comply with this rule may be regarded as a default and dealt with appropriately (*see 22NYCRR202.70, Rule 12*).

MANDATORY PRE CONFERENCE CONSULTATION BETWEEN THE PARTIES

Pursuant to *22NYCRR202.70, Rule 8(a)*, all parties shall consult prior to a Preliminary or Compliance Conference about (1) resolution of case; (2) discovery and other issues, including anticipated electronic discovery issues pursuant to *22NYCRR202.70, Rule 8(b)*, and; (3) the possible use of alternative dispute resolution (*22NYCRR202.70, Rule 3; Queens Supreme Court ADR Rules, dated 9/17/13*). Counsel shall make a good faith effort to reach an agreement on these matters in advance of the conference.

PRELIMINARY CONFERENCE

A Preliminary Conference shall be held within 45 days of the assignment of the case to this Part (*22NYCRR202.70, Rule 7*).

All Preliminary Conferences will be held on Tuesday, at 11:30 a.m. at the Preliminary Conference Part, Room Number 3002, of the courthouse, and they are presided over by the court-appointed referee, unless otherwise directed by the Court. Failure to appear at the scheduled preliminary conference may result in discovery being ordered ex-parte, or any other appropriate sanction, including preclusion, dismissal, or striking of an answer (*22NYCRR202.70, Rule 12*).

Any inquiry pertaining to preliminary conferences shall be made to the Preliminary Conference Part at (718) 298-1046.

COMPLIANCE CONFERENCES

Compliance Conferences shall be held on the date scheduled in the Preliminary Conference Stipulation and Order. Conferences shall be held before the Honorable Martin E. Ritholtz in courtroom 313 on Friday, at 9:30 a.m.

The Purpose of the Compliance Conference is to monitor the progress of discovery, explore potential settlement and set a deadline for the filing of a Note of Issue (*22NYCRR202.19 (b)(3)*). Where appropriate, the order will contain; (1) directions for submission to the alternative dispute resolution program; (2) a schedule for dispositive motions and ; (3) resolution of the following electronic discovery issues, inter alia, (i) identification of potentially relevant types or categories of electronically stored information (“ESI”) and the relevant time frame; (ii) disclosure of the applications and manner in which the ESI is maintained; (iii) identification of potentially relevant sources of ESI and whether the ESI is reasonably accessible; (iv) implementation of a preservation plan for potentially relevant ESI; (v) identification of the individual(s) responsible for preservation of ESI; (vi) the scope, extent, order, and form of production; (vii) identification, redaction, labeling, and logging of privileged or confidential ESI; (viii) claw-back or other provisions for privileged or protected ESI; (ix) the the scope or method for searching and reviewing ESI; (x) the anticipated cost and burden of data recovery and proposed initial allocation of such costs; and (xi) designation of experts (*NYCRR202.70, Rule 8(b) and Rule 11(a)*).

There will be no adjournments of Compliance Conferences whatsoever.

DISCLOSURE DISPUTES

Counsel must consult with one another in a good faith effort to resolve all disputes about disclosure (*NYCRR202.7, 202.70, Rule 14*). If counsel are unable to resolve any disclosure disputes in this fashion, the aggrieved party shall contact chambers at (718) 298-1089, to schedule a telephone conference with the Court, in a good faith effort to resolve the dispute.

ADVANCE NOTICE OF MOTIONS

Not ONLY disclosure disputes, but any issues, including dispositive and substantive ones, must be addressed *by a telephone or in-person conference*, in accordance with 22NYCRR202.70, Rule 24(a), as a pre-motion conference, so as to afford the Court the opportunity to resolve these issues before motion practice ensues. If the matter cannot be resolved, the Court shall set forth a strict briefing schedule for the service of moving and opposing papers.

MOTIONS

ALL MOTIONS shall be made returnable in the Centralized Motion Part (CMP). Parties are required to comply with the CMP rules. All inquires regarding such motions shall be made to the Centralized Motion Part Office at (718) 298-1728.

Any party who files a motion and/or opposition thereto pursuant to the **NYS Courts Electronic Filing (“E-filing”)**, shall provide the Court with working copies of the documents filed electronically, which shall be submitted to the CMP Clerk on the first noticed return date of the motion.

PRE-TRIAL CONFERENCE

Counsel attending the conference must be fully familiar with and authorized to settle, stipulate, and dispose of the action(s).

SETTLEMENTS AND DISCONTINUANCES

If an action is settled, discontinued or otherwise disposed of, counsel shall immediately inform the Court by submission of a copy of the stipulation or a letter directed to the Clerk of the Part.