SUPREME COURT - NASSAU COUNTY
IAS PART 19 - RULES & PROCEDURES
Effective as of 03/14/14

Justice:	**HON. ROBERT A. BRUNO**
Law Clerk:	**TRICIA A. MORIATES, ESQ.**
Secretary:	**ANNIE MEISTER**
Phone:	**(516) 493-3211**
Courtroom:	**(516) 493-3214**
Fax:	**(516) 493-3057**

I. ADJOURNMENTS

A. Motions and Status Conferences:

1. Adjournments of conferences may be granted if there is consent of all parties **and prior approval of the Court.** If all parties do not consent to the adjournment, application shall be made in Court on the day of the conference.

2. Applications to adjourn conferences on consent must be received by Chambers via facsimile by **12:30 p.m.** on the business day prior to the conference date and MUST be made using the Request for Adjournment Form which can be obtained through chambers. The Request for Adjournment Form is to be filled out **completely**. Incomplete forms or forms received after **12:30 p.m.** on the business day prior to the conference date or return date shall be summarily denied, unless the Court is advised of extraordinary circumstances which will be taken into consideration. If the application is granted, a letter confirming same shall be faxed to Chambers, the same day the application is granted.

3. Adjournments of **motions** shall be sought through the Centralized Motion Part at (516) 493-3311.

4. Letters confirming adjournments **shall contain** full names of all parties, index number, and shall specify if motion or conference is being adjourned.

5. Adjournments requested because of actual engagement of counsel **on trial** must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Part 125.

6. Adjournment requests which are left on the Chamber's voice mail shall be disregarded.

B. **Preliminary Conference**

1. Preliminary Conference adjournments are to be addressed to the DCM Clerk's office and not to Chambers.

II. MOTIONS

A. **Submission of Motions**

1. All motions relating to **DISCOVERY** require appearance of counsel and pro se parties on the return date of the motion or order to show cause unless otherwise specifically waived by the Court. There are no submitted discovery motions without an appearance in this Part.

2. In the event a case is already scheduled for a conference with the Court, counsel should endeavor to make the return date of a motion, if possible, on said date.

3. Motions are to be served and filed in conformity with CPLR §2214. All motions must be organized in such a manner so that each branch of the motion stated in the notice of motion or order to show cause is preceded by a number or a letter. Said number or letter designation shall be used in the supporting affirmation and affidavits and shall correspond to the number/letter used for each branch as set forth in the notice of motion or order to show cause. Any references to EBT testimony shall cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or "relevant portions"; full transcripts shall be supplied. **Motions not consistent with these rules will be rejected.**

4. All exhibits must be clearly tabbed; no exhibits shall be double sided; no mini-scripts are accepted. All submissions shall be fully and securely bound and shall have a litigation back attached thereto. **Motions not consistent with these rules will be rejected.**

5. If all or part of a submitted motion is settled, counsel shall forward the original stipulation of settlement to the court. Such stipulation shall be accompanied by a letter setting forth the date the motion was submitted, what aspects of the motion have been settled and what issues remain to be decided. If the motion is resolved in its entirety, the movant shall indicate same. If the motion is resolved on the record, in whole or in part, movant shall obtain such transcript so that same can be "so-ordered," unless the Court directs otherwise.

6. All papers must be submitted in a timely manner. The Court will not consider late papers absent prior Court approval. No sur-reply affidavit, affirmation, or letter will be accepted or considered without leave of the Court.

7. Pursuant to CPLR §3212(a), a motion for summary judgment shall be made no later than ninety (90) days after the filing of the Note of Issue, except with leave of Court on good cause shown. Any physician affirmations, reports or other medical proof submitted in threshold motions shall contain the original signatures of the physician or medical provider.

8. When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document. Proposed orders or judgments incorporated within the motion papers will be considered as exhibits, treated as such, and may be disregarded.

9. Counsel are required to provide the Court with ***SELF-ADDRESSED, STAMPED ENVELOPES*** with the submitted papers in order to facilitate delivery of the Court's decision.

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

B. Oral Argument

The Court will determine, after submission, whether oral argument is warranted. Upon such determination, counsel for all parties will be contacted and advised of the new adjourned date for purposes of oral argument.

C. Application for a Stay or Temporary Restraining Order (TRO)

1. Any Order to Show Cause seeking **any** injunctive relief, including a stay or TRO, must be made in accordance with 22 NYCRR 202.7(f). The moving party shall advise the Court as soon as practicable of counsel's intent to make such application.

2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made on the call of the motion calendar. Failure to apply for such extension shall result in the automatic vacatur of the stay or TRO, unless the Order to Show Cause provides otherwise.

3. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and affirmation explaining in detail the nature of the emergency. In addition to the foregoing, the movant should be prepared to appear in Court and make a record before the Court, if the Court requires same.

III. COURT APPEARANCES

A. All Court appearances, unless otherwise specified or directed by the Court, shall be scheduled for **9:30 a.m.** Trials commence at 10:00 a.m. and witness testimony will not be interrupted to conduct conferences after 10:00 a.m. Therefore, failure to appear on time may result in lengthy waiting until there is a break in testimony.

B. Attorneys and Pro Se litigants must alert the Court Officer or Court Clerk of their presence and complete a sign-in sheet. If counsel must also appear before another Judge, counsel must advise the Part Clerk or Court Officer where counsel can be reached. All counsel are directed to appear for each and every conference unless otherwise directed by the Court.

C. Counsel who appear in this Part must be fully familiar with the case for which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients.

D. Counsel are advised to confirm all scheduled appearances with their adversary the day before the appearance date to confirm a prompt appearance.

E. Failure to appear at any scheduled call of the calendar or at any conference may result in a default and/or a dismissal of the action (NYCRR §202.27).

IV. COMMUNICATION WITH CHAMBERS

A. INQUIRES

1. In all communications with chambers by letter, the title of the action, full names of the parties and index number shall be set forth, with copies simultaneously delivered to all counsel. ***Ex parte*** **communications will be disregarded, except as otherwise provided herein.**

2. **Copies of correspondence between counsel shall not be sent to the Court.** Such copies will be disregarded and not placed in the Court's file.

3. The Court will not accept telefax communications or submissions without prior permission.

4. The Court shall not accept ***ex parte*** telephone communications on substantive issues.

5. E-mail correspondence with Chambers staff is not permitted unless prior authorization is obtained.

6. Attorneys shall not call chambers during the daily lunch hour which is from 1:00 p.m. to 2:00 p.m.

B. SETTLEMENTS

1. No out of court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, submitting the executed settlement agreement/stipulation or certifying that such agreement/stipulation has, in fact, been executed.

V. SANCTIONS

A. The Court will not consider a sanctions application unless the moving party first seeks withdrawal or discontinuation of the offending act or action, or demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

VI. TRIAL PART RULES

A. A Note of Issue is to be filed within ninety (90) days after certification, unless otherwise specified in the certification order. Counsel for plaintiff shall pay the requisite fee with the County Clerk and ensure that the Note of Issue is submitted to the clerk who will then assign a calendar number.

B. **At the first appearance of all cases assigned to this Part for trial,** a pre-trial conference shall be held. At the conference, the Court shall provide for the submission of scheduling of the following:

1. *In limine* applications: 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 (2) copies and provide counsel for all parties with a copy. There shall be a separate affirmation for each motion *in limine*. The Court shall be provided with all prior decisions and orders which may be relevant to said *in limine* applications.

2. Pre-trial memoranda providing the Court with cited case law, statutory law and common law to be considered by the Court.

3. All trial exhibits, whether the parties stipulate to admit them into evidence to the Court or not, shall be pre-marked by the Court reporter. A copy of the list of exhibits must be given to the Court before the trial begins. During trial the Court shall be provided with a courtesy copy of each exhibit. As to those exhibits marked for identification, the Court will address their admissibility *in limine* or during the trial, as may be appropriate. (See, *Davis Eckert v. State of New York*, 70 NY2d 632, 518 NYS2d 957.)

4. A list of proposed witnesses for the Court's information and for each such witness the elements of proof to be supplied (in the case of plaintiff) or addressed (in the case of defendant) by such witness.

   To discuss scheduling as well as the number of witnesses to be called at trial, and the estimated length of trial and for each witness.

   To alert the Court as to any anticipated problems regarding the attendance at trial of parties, attorneys or essential witnesses, and any other practical problems which the Court should consider in scheduling.

   To alert the Court to any anticipated requests for a jury instruction relating to missing witnesses and/or documents.

   To alert the Court to any anticipated request for apportionment as to alleged culpable non-parties pursuant to CPLR Article 16.

5. **Expert witnesses** - 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. Where the exhibit is a many-paged document such as a hospital record, office record or voluminous (more than 10 pages) business record, counsel shall identify by way of tabs, Post-Its, page numbering or similar device, the particular page or pages to which reference will be made.

6. Marked pleadings pursuant to CPLR §4012 are to be submitted before opening statements along with a copy of any statutory provisions in effect at the time the cause of action arose upon which either the plaintiff or defendant relies; the bill(s) of particular; all expert reports relevant to the issues; all reports, depositions and written statements which may be used to either refresh a witness' recollection and/or cross-examine the witness. If any part of a deposition is to be read into evidence (as distinguished from mere use on cross-examination) you must, well in advance, provide the Court and your adversary with the page and line number of all such testimony so that all objections can be addressed prior to use before the jury.

7. Parties are encouraged to stipulate to facts and/or exhibits.

8. Requests to Charge and Verdict Sheets - Each party shall supply the Court with preliminary requests to charge and proposed verdict sheets. 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. Citations to appropriate statutory or common law authority shall be given in support of suggested non-PJI jury charges or suggest PJI

modifications. 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.

9. Objections should be stated without argument except to simply state the ground therefor, e.g. hearsay, relevance, etc. If further argument is appropriate, it will be invited by the Court.

10. Trial counsel are responsible for redactions of all evidence.

11. Trials will be conducted on a continual daily basis until conclusion. As such, no adjournments or delays during trial will be accepted unless the Court finds exigent circumstances exist.

12. Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc., at the end of a trial, unless, in the case of non-jury trials, the Court reserves its decision. In all cases, exhibits, pleadings, transcripts, etc., not retrieved within thirty (30) days after the Court renders a decision in a non-jury trial, shall be disposed of.

13. 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 (who has the burden of proof) 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.

14. Interpreters - On the first appearance in this Part, any party who will require the assistance of an interpreter or any special needs shall notify the Clerk in the Part and specify the language (including dialect, where appropriate).

15. Equipment - On the first appearance in the Part for trial, any party who intends to rely upon the Court to supply equipment for utilizing a video tape recording, an audio tape recording, digital recording, demonstrative evidence, or the like, shall notify the Clerk in the Part.

16. Nassau County Police Officers - On the first appearance in this Part for trial, any party who has issued a subpoena to secure the appearance of a Nassau County Police Officer shall notify the Clerk in the Part so that the Clerk may facilitate the officer's appearance through police liaison.

17. Check in at the start of trial each date so that the Clerk of the Court is aware of your presence.

VII. MISCELLANEOUS

A. CONFERENCES/TRIAL

If there are any outstanding motions (submitted or pending) at the time of the conference/trial, the Principal Law Clerk and/or Judge must be so informed that day and the submission date must be provided by counsel. Copies of such motions should be available to the Court at the time of such conference.

B. ATTORNEYS OF RECORD

Attorneys who have appeared in the matter are to make all appearances until they are relieved by the Court or a fully executed consent to change attorney has been filed with Part 19 and with the Clerk of the Court.

C. STAFF

The Court functions through the aid and assistance of the courtroom and chambers staff. They are expected to treat attorneys, litigants and others in a dignified and civil manner; similarly, they are to be treated in a civil and professional manner.

D. SETTLEMENTS

With respect to actions which have been settled or otherwise discontinued, counsel must comply with 22 NYCRR 202.28 or sanctions may be imposed. Counsel are reminded of their obligations under §202.28 of the Uniform Rules for Trial Courts to file a stipulation or statement of discontinuance with the Part of the Court to which the matter has been assigned within twenty (20) days of the discontinuance. If a discontinued action is on a trial calendar, a copy of the stipulation or statement shall also be filed with the Clerk of the Trial Part.

E. **In the absence of an EMERGENCY, no Order to Show Cause will be heard after 2:00 p.m. All Orders to Show Cause will be heard the next business day, at 9:30 a.m.**

F. It is incumbent upon all counsel and parties appearing before this Court to insure they have this Court's current Part Rules and are in compliance with same.

G. These rules are in addition to the New York State and Local Rules of Court. Failure to comply with any rules or orders of this Court may result in preclusion and/or sanctions without further notice.

REVISED 03/14/14

THIS FORM MUST BE FILLED OUT COMPLETELY
INCOMPLETE FORMS WILL BE DISREGARDED

Case Name: _____ **Index #** _____

HAVE THE PARTIES COMPLIED WITH ALL COURT ORDERS? (Y/N): _____
IF NOT, ATTACH A DETAILED EXPLANATION REGARDING WHY COMPLIANCE HAS NOT OCCURRED.

Date on Calendar: _____ **Last Court Appearance:** _____

Req'd Adj. Dates(At Least 3): 1)_____ **2)**_____ **3)**_____

ALL REQUESTS MUST BE ON CONSENT AND ALL REQUESTED ADJOURN DATES MUST BE CONFIRMED WITH YOUR ADVERSARY, IF APPLICABLE, PRIOR TO MAKING THE REQUEST.

Nature of Conference:_____

Reason for Adjournment (Affirmation of Actual Engagement must be attached if applicable):

_____

_____

_____

_____

Contact Info:

Attorney contacting Court and who attorney represents: _____

Person Making Call: _____ **Phone #** _____

Fax # _____

Adversary's name: _____ **Phone #** _____

Fax # _____

ALL REQUESTS FOR CONFERENCE ADJOURNMENTS MUST BE RECEIVED VIA FAX (516) 493-3057 BEFORE 2:00 P.M. OF THE BUSINESS DAY PRIOR TO THE CONFERENCE RETURN DATE

PLEASE FAX CONFIRMING LETTER OF DATE OF ADJOURNMENT