

1STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
**SUPREME COURT-SUFFOLK COUNTY**  
**HON. WILLIAM G. FORD**  
CHAMBERS  
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**CIVIL PART 38- RULES AND PROCEDURES**

Unless otherwise directed by the Court, the following rules shall govern civil practice in Part 38:

**CORRESPONDENCE**

**BY FACSIMILE:** Please note that no party shall fax **any** correspondence or motion related documents to chambers without prior written permission. Upon granting permission, all letter facsimiles seeking permission to process a motion, or otherwise, are limited to two (2) pages (not including the cover sheet). Any such correspondence of more than two (2) pages will not be considered.

**E-FILE CASES:** All correspondence to the Court shall be mailed or faxed to chambers.

**MOTION PRACTICE**

Motion papers shall comply with the form prescribed in 22 NYCRR §202.8(c). All affidavits and exhibits shall be identified by separately and consecutively numbered or lettered tabs. Legal memoranda must not exceed 15 pages in length, reply memoranda, five pages. Both official and unofficial citations to cases are required. Copies of orders or decisions will not be furnished unless a self-addressed, stamped envelope is supplied with the motion papers. All motion papers must be submitted through Special Term. Exhibits shall be tabbed. The tabs shall be affixed to the lower portion of the exhibit, not on the side. In electronically filed cases, the Court shall be provided with “working copies” of all papers, as defined in Part 202.5(b) of the Uniform Civil Rules for the Supreme Court and the County Court.

**PAPERS:** Timely filing of all papers in accordance with the CPLR is required.

**PRE-MOTION CONFERENCE:** Prior to submitting a motion on actions assigned to this Court, movant shall arrange and schedule a conference with the Court, notify all parties to the action in advance, and be prepared to articulate the issues and efforts toward resolution. No motion may be submitted in the absence of the pre-motion conference, which may be had via conference call.

## **DISCOVERY MOTIONS:**

**I.** With respect to cases already assigned to this court, in the event of a discovery dispute, no motion with respect to the dispute shall be made without a prior conference with the court. Said conference may be obtained by submission of a letter application, not exceeding one page in length, to the court and copied to all parties. With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention resulting in the assignment of the case to this court, no opposition papers shall be served until there has been a prior conference with the court. Said conference may be obtained by submission of a letter application, not exceeding one page in length to the court and copied to all parties. The application for a discovery conference may be made by the movant or by the opponent to the motion, **however**, the application must be made within eight days of service of the motion.

**II.** Permission must be obtained from chambers prior to the submission of a letter application. Failure to request a discovery conference may result in the denial of the motion. The court strongly urges that prior to requesting a conference, counsel discuss the issues and make a bonafide attempt to resolve them without judicial intervention.

**III.** Consistent with 22 NYCRR §202.80(f), no motion related to disclosure or bills of particulars may be made unless and until a conference has been conducted by this court, notwithstanding that a preliminary or other conference may have been conducted by Justice Ford or another justice previously assigned the action. The purpose of the conference will be to resolve the dispute between the parties, whether by stipulation or by order of the court. Counsel should be prepared to argue his or her position with regard to the disputed disclosure on the date of the conference. In the event the dispute cannot be resolved, the court may grant permission to make an appropriate motion addressed to the disputed disclosure.

**IV.** Prior to any request for a conference related to disclosure or bills of particulars, however, counsel shall advise the court, in writing and on notice to all adversaries, of the specific items of disclosure or particulars in dispute. This written communication shall contain an affirmation by counsel that there has been a good faith attempt to resolve the dispute without judicial intervention. Opposing counsel shall advise the court, in writing and on notice to all parties, of their positions with respect to such items or particulars. The court will thereupon address the issues presented either in writing or by telephone conference.

**RETURN DATES/ SUBMISSIONS:** All motions made in cases assigned to Judge Ford must be calendared for Thursdays and on submission only.

**ADJOURNMENTS:** Adjournments of motions will be governed by 22 NYCRR 202.8 (e). All proposed adjourn dates of motions must fall on a Thursday. All adjournments on consent shall be in writing and must be received by chambers no later than 3:00 p.m. on the day prior to the return date. The fax number for chambers is (631) 852-3120. If the consent of all appearing parties is not obtainable, an oral application for an adjournment on or before the date the motion is returnable must be made by the party seeking the adjournment, upon due notice to all parties (telephone conference is available).

Adjournments are limited to three in number and may not extend the original return date more than 60 days. Application for further adjournments must be made in person before the court on the last submit date given, and in accordance with the procedure prescribed in subdivision III above. Such adjournments will be granted by the court only upon good cause shown.

**SETTLED OR WITHDRAWN MOTIONS:** The Court is to be advised immediately of the settlement or withdrawal of any motion or any portion of any motion sub judice, and/or the settlement of any underlying case with motions sub judice. The failure to do is sanctionable.

**POST NOTE MOTIONS:** Neither an appearance nor a pre-motion conference is required for post-note of issue motions, unless requested by all parties.

**REQUESTS FOR INJUNCTION AND/OR RESTRAINING ORDERS:** An appearance and oral argument shall be required on all motions which seek a preliminary injunction or an “extension” of a stay or restraining order, unless all parties in writing agree otherwise. An appearance and oral argument shall also be required where a party is seeking emergency relief and/or the immediate intervention of the court, unless all parties agree otherwise. All other motions, including those for summary judgment or dismissal made in the general procedural course of an action or proceeding, are on submission only. Chambers may be contacted in the event counsel has a question concerning the applicability of this rule in a given case.

### **CONFERENCES**

In all actions requiring same, there shall be a preliminary conference at which the parties shall enter into a Preliminary Conference Order, which will thereafter be “so-ordered” by the court, which schedules the disclosure necessary in a given case. The progress of the parties in completing disclosure shall be reported to the court at any and all compliance conferences which are scheduled thereafter. When all disclosure is complete, the parties shall execute a Compliance Conference Order which certifies that all discovery is complete, provides for the filing of the Note of Issue within 30 days of the date thereof, and schedules the Pre-Trial Conference in those cases where a Pre-Trial Conference is required. A copy of the Compliance Conference Order must be filed with the Note of Issue. The subject of any such Pre-Trial Conference shall include settlement of the matter.

No party may file a Note of Issue and Certificate of Readiness without first having entered into a Compliance Conference Order certifying that disclosure has been completed and that the case is ready for trial. No order shall be entered certifying a case as ready “subject to” the completion of disclosure at a future date without express permission of the Court.

**SCHEDULING:** Status and Compliance conferences shall be calendered Tuesdays and Wednesdays. The parties, on consent, may schedule a Settlement Conference with the Court. Conferences may be scheduled throughout the day.

**APPEARANCES:** Appearances by persons with knowledge of the facts and vested with authority to make binding dispositions are required. Non-appearances will not be countenanced by the Court and may subject the non-appearing party to one or more of the sanctions attendant with defaults (see, 22 NYCRR 202.27; 22 NYCRR Part 130-2).

**ADJOURNMENTS (NON-MOTIONS):** All applications whether on consent or over objection must be communicated to chambers no later than 3:00 p.m. on the day prior to the scheduled conference by mail or fax. Any application to the Court seeking an adjournment must be done on prior notice to all parties.

**COMPLIANCE & PRE-TRIAL CONFERENCES:** These conferences will be scheduled and conducted in accordance with the provisions of 22 NYCRR 202.19. Counsel are expected to have authority to dispose the matter.

**ELECTRONIC FILING:** Part 38 requires working copies for all electronic submissions. Working copies shall be delivered to chambers on or before the submission date. No motion shall be deemed fully submitted until all hard copy submissions have been provided.

### **TRIALS**

**JURY TRIALS:** A trial conference with the Court shall be held immediately prior to the commencement of all jury trials. Thereat, counsel shall supply the Court with marked pleadings, amendments thereto and all bills of particulars served. Counsel shall further provide the Court with a list of proposed jury charges and proposed jury verdict sheets. A list of all pre-marked exhibits shall also be provided to the Court and to the stenographer. Counsel shall advise the Court of the number of witnesses to be called, and if any be experts, shall provide the information required by CPLR 3101(d)(1)(I).

All hospital records and other items in evidence over fifteen [15] pages must be paginated before use in the trial. In all malpractice cases each attorney in anticipation of charge conference and verdict sheet preparation must have the departure and causation testimony located in the trial transcript available for the Courts review.

**NON-JURY TRIALS:** Non- Jury trials will be governed by the same procedures and requirements set forth above for Jury Trials. In addition thereto, for non-Jury trials, counsel shall submit a proposed order framing the issues to be tried. The parties shall be required to provide a transcript of the trial. The filing of a note of issue is a condition precedent to the commencement of any trial.

### **MISCELLANEOUS MATTERS**

**COMPROMISE APPLICATIONS:** All applications for court approval of a proposed compromise of an infant or other disabled party's claim must be submitted through the Special Term, with proof of service on all remaining parties. Compliance with the provisions of CPLR 1207, 1208 and 22 NYCRR 202.67 and a proposed distribution of amounts to be recovered by the disabled plaintiff that is consistent with the provisions of CPLR 1206 is required. The Court will not accept medical reports/affidavits executed more than six months prior to the submission date. The report must indicate whether the injured plaintiff has fully recovered, and if not, the nature and extent of the injuries and course of future treatment. Since the Court may direct that notice of the application be given to all persons who possess claims against the proceeds recoverable under the compromise, including those with statutory liens, the names and addresses of all such persons and the amount of their respective claims must be set forth in the petition. If no person has asserted such a claim, the petition must so state. Once the submissions are complete, an appearance date will be scheduled by the Court.

**HEARINGS/ INQUESTS:** All hearing and or inquests from cases in the inventory of IAS Part 38 shall be scheduled by the Court. The filing of a note of issue is a condition precedent to the commencement of any hearing or inquest.

**EX PARTE COMMUNICATIONS WITH CHAMBERS:** Except to the limited extent permitted by these rules and by the rules set forth at 22 NYCRR 100.3, ex parte communications with the Court or any member of its staff, by telephone or otherwise, is strictly prohibited.