

Practices in Part 54
Revised November 2014

Commercial Division Rules

All parties should familiarize themselves with the Commercial Division Rules, including what constitutes a commercial case. A copy of the Rules is available at: http://www.nycourts.gov/courts/comdiv/newyork_rules.shtml.

Electronic Filing

All cases in Part 54 must be electronically filed through the New York State Courts E-Filing (NYSCEF) system, except those cases involving pro se litigants. All submissions to the Court (including briefs, proposed orders and judgments, and letters) should be electronically filed and a courtesy copy of the e-filed document, together with a NYSCEF confirmation notice, shall be delivered to the court. For NYSCEF instructions, contact the E-filing Support Center at (646) 386-3033 or www.courts.state.ny.us/efile, or see the Commercial Division's website for New York County at: <http://www.nycourts.gov/courts/comdiv/newyork.shtml>. All e-filed documents must be searchable. E-filed exhibits should be described in reasonable detail, as opposed to designated only by a number or letter.

Scheduling

All questions about scheduling appearances or adjournments should be addressed to the Part Clerk, Celia Rodriguez, at (646) 386-3362. No adjournments will be granted over the phone unless all parties who have appeared are on the line.

Please be advised that litigants must obtain Court permission to adjourn a conference. Excepting emergencies, such permission must be obtained no later than 2 business days in advance of the scheduled appearance. In other words, court permission to adjourn a Thursday conference must be secured no later than the close of business on the preceding Monday.

Attorneys must sign up for eTrack and regularly check eCourts for scheduled appearances. Defaults in appearing will not be excused for lack of notice from eTrack or an omission by the New York Law Journal.

Telephone Calls

Litigants may call Chambers at (646) 386-3363, between 4 pm and 5:30 pm, to schedule a telephone conference with one of the law clerks. Part 54 holds unscheduled telephone conferences Monday through Thursday between 4 and 5:30 pm. If the parties would like to speak by telephone with one of the law clerks, at a scheduled conference call or otherwise, they should first get **ALL** parties on the phone before placing the call. **Please note: no attorney in Justice Kornreich's chambers will communicate with a litigant *ex parte*, nor will they assist parties in the practice of law, such as by advising how to interpret a rule, law or decision.**

Letters

No party shall send a letter or facsimile to chambers unless instructed to do so by the court. All letters must be e-filed before they are submitted and the electronic filing confirmation page must be submitted with the letter.

Conferences

All parties must confer at least 2 weeks before the preliminary conference, at which time they must jointly prepare (1) a brief status letter, no more than 2 pages in length, that includes a summary of the relevant factual background, the causes of action, affirmative defenses and counterclaims; (2) a proposed Preliminary Conference Order in the form available at [link to pc order]; and (3) a stipulation governing how electronic discovery will be conducted.

An attorney appearing for a preliminary, status or compliance conference must be fully familiar with the case.

The parties shall comply with Commercial Division Rule 8 regarding electronic disclosure and shall come to the preliminary conference prepared to discuss proposed search terms, relevant time periods, and the names of key personnel whose files they wish to search, so that the court can resolve disputes during the conference.

Any party that wants to resolve a dispute about the sufficiency of a response during a disclosure conference shall bring whatever will be needed to obtain a ruling.

Parties are to bring copies of **ALL** prior discovery orders to each and every court appearance.

Discovery

When discovery deadlines are ordered by the court, service of discovery requests, responses or motions shall be made so as to be received no later than 5pm on the date specified in the order. A request for discovery and inspection will not be deemed responded to unless the requested documents are produced. All objections to documents requests and interrogatories shall be made specifically; general objections will not be honored by the court.

Interrogatories are limited to 25, including subparts, unless another limit is specified in the PC order. This limit applies to consolidated actions as well.

Discovery is not stayed by a dispositive motion or a mediation, unless otherwise directed by the court.

If a party objects to a disclosure demand on the ground of privilege, with its response to the demand, the party asserting the privilege shall serve on all other parties a privilege log of the responsive documents that are not being disclosed and a copy of the redacted documents, bated-stamped. The privilege log shall identify all redacted and completely withheld documents by

bate-stamp numbers, dates, authors and recipients, the general subject matter of the document if it will not waive the privilege, and shall state the privileges being asserted. Failure to serve a privilege log and redacted documents with the party's response to a disclosure demand will, absent good cause, be deemed a waiver of the party's objection on the ground of privilege. Following service of a privilege log, the parties shall confer in an attempt to reach agreement on whether the asserted privileges apply. If agreement cannot be reached, the parties shall call the court Clerk to schedule a conference.

Motions

In addition to electronically filing motion papers, hard copies of all e-filed papers and exhibits for motions returnable in the Motion Support Office, Room 130, must be delivered to Room 130. Extra courtesy copies of papers will not be accepted.

Motion sequence numbers shall appear on ALL motion papers: the notice of motion, memos of law, exhibits, affirmations, etc. and settled orders. All exhibits must be separated by exhibit tabs. Unless the papers are bound on the left side, two-sided copies of exhibits are not permitted.

Transcripts

At the conclusion of oral argument the movant is to order the transcript and have a copy e-filed. No motion will be deemed fully submitted until the court receives the transcript. If a decision is rendered on the record, the prevailing party shall e-file a copy of the transcript.

In the event that a party requests that a transcript be "So Ordered" by the Court, the following procedure must be adhered to: transcripts shall be submitted together with an errata sheet correcting all errors in the record, including presumed court errors. If all parties consent to the proposed corrections or agree that no corrections are required, a stipulation to that effect shall accompany the errata sheet or transcript. In the absence of consent, the requesting party shall notice the record for settlement pursuant to CPLR 5525 [c].

Summary Judgment Motions.

In lieu of filing Commercial Rule 19-a statements with summary judgment motions, the parties shall confer prior to moving for summary judgment and submit with the motion(s) one joint statement of material facts that the parties agree are not in dispute. The court will not consider opposing 19-a statements in connection with a summary judgment motion. References to the record in the parties submissions shall refer to NYSCEF document numbers, **NOT** to a 19-a statement of facts.

Contact Information

All attorneys and pro se litigants must provide their contact information to the Trial Support Office, Room 158M, at 60 Centre Street, New York, NY 10007, by filing a notice of

appearance. All attorneys who appear in Part 54 must provide the Part Clerk with a business card that has the attorney's current contact information.

Confidentiality Agreements

Parties shall use the confidentiality agreement and order available at: http://www.nycourts.gov/courts/comdiv/PDFs/Part54_Confidentiality_Agreement.PDF. Any changes that the parties wish to make to the order shall be electronically filed and submitted to the court with a redlined copy of the court's form agreement. A confidentiality agreement between the parties and approved by the court is for the purpose of disclosure only. Any party, who wants to submit a document designated as confidential to the court in connection with a motion, must make a motion to seal, pursuant to 22 NYCRR 216, to maintain confidentiality of the document. Hard copies of documents that the movant wishes to seal should be delivered to the courtroom in a sealed envelope marked confidential. E-filed memoranda of law or other submissions that must refer to the documents sought to be sealed should redact any such references and unredacted copies also shall be delivered to the courtroom in a sealed envelope marked confidential.

Consolidation or Amendment of Captions

All orders on motions or stipulations to consolidate, to sever claims, or to amend captions shall be served with notice of entry on the Trial Support Office, Room 158M, at genclerk-ords-non-mot@nycourts.gov and on the County Clerk by e-filing the order or stipulation and a Notice to the County Clerk pursuant to CPLR 8019(c) (NYSCEF Form EF-22, available on the NYSCEF site).

Trials

Prior to trial, a pre-trial hearing will be held. Before that date, all *in limine* motions must be fully submitted in Room 130, and the following must have been exchanged: 1) witness lists and cross-designations of deposition testimony; 2) expert reports; and 3) pre-marked exhibits, together with a spread sheet containing the exhibit numbers or letters, a very brief description of the exhibit, and blank spaces for a) the opposing parties to object or agree to admission, b) a change of position after the parties meet and confer regarding any objections, c) a court ruling on the pre-trial date as to the exhibits not agreed upon.

On the date of trial, the plaintiff shall provide the court with marked pleadings. If it is a bench trial, the parties will provide the court with a stipulation as to all agreed upon facts and pre-trial briefs. If it is a jury trial, the parties will submit requests to charge and contentions.

Requests for admission pro hac vice

A request for *pro hac vice* admission, whether made by motion or stipulation, shall be accompanied by a proposed order and an affidavit in support from a member of the Bar of the State of New York, an affidavit of the applicant and a recent certificate of good standing from the applicant.