

Trial Rules for Non-Jury Trials in Part 53

(Revised November 2014)

Prior to the Commencement of Trial

1. **Pre-trial Conference:** All parties shall first confer on the following issues and participate in a pre-trial conference to discuss:
 - A. Proposed dates, and estimated length of trial;
 - B. Motions in limine: The timing and manner in which motions in limine are to be initiated shall be determined at the pre-trial conference;
 - C. Expert Disclosure

10 Business Days Prior to the Commencement of Trial

2. **Direct Testimony in Affidavit Form:** All **direct testimony** of a party's own witness shall be submitted in **affidavit form**. Upon being called at trial, a witness shall first swear to the contents of his/her affidavit, which is followed by opposing counsel's objections (if any) to the testimony, followed by cross-examination, and re-direct examination (if any). Parties shall exchange direct testimony affidavits, ten business days prior to the commencement of the trial. **Direct testimony affidavits should be delivered directly to the Part and need not be E-filed.**

Exception: Where the witness is not within a party's control, counsel need not submit a direct testimony affidavit from him/her.

3. **Witness Lists:** Parties shall exchange **witness lists** and ten business days prior to the commencement of trial. The witness list shall designate whether the witness is being called as an "expert" or "fact" witness. If designated as an expert witness, it should be indicated whether the parties agree or dispute the witness' status. Objections to the introduction of a particular witness shall be raised at trial. **Witness list should be sent directly to the Part and need not be E-filed.**
4. **Trial Exhibits:** Parties shall exchange **exhibit books** ten business days prior to the commencement of trial. Counsel shall pre-mark all the exhibits prior to trial, and must state for each exhibit if it is agreed to or disputed between the parties as admissible evidence. Exhibits for which the parties do not dispute admissibility shall be immediately entered into evidence upon introduction at trial. Otherwise, objections to the introduction of a particular exhibit shall be raised at trial. **Trial exhibits should be sent directly to the Part and need not be E-filed.**

Note: Parties shall be prepared to provide the Court and the witness being questioned one loose copy of every document that is being introduced at trial.

5. **Pre-Trial Memoranda and Statements of Disputed Facts/Agreed Upon Facts:** Should be sent directly to the Part and need not be E-filed.
6. **Marked Pleadings:** Should be sent directly to the Part and need not be E-filed.
7. **Foreign Translator:** Where a **translator** is needed, counsel shall notify the Part Clerk at least one week prior to the commencement of trial.
8. **Confirmation of Trial Date:** Counsel shall notify the Part Clerk two (2) business days prior to the commencement of the trial to **confirm** that the trial is going forward, as scheduled. **Applications for adjournments** will not be entertained absent exigent circumstances, and shall be directed to chambers no later than one week prior to the commencement of trial.
9. **Provide Information to the Court Reporter:** The morning/afternoon that the trial is set to begin, parties shall provide a copy of the witness lists including their contact information, a glossary of names, and any unusual words and/or acronyms that they anticipate to be using during the trial to the court reporter.
10. **Demonstrative Evidence:** Demonstrative evidence, including charts, graphics, enlarged contract language, video depositions, and electronic media devices are prohibited, unless the party has obtained permission from the Court.

Post-Trial

11. **Post-trial memoranda briefs and Proposed Findings of Facts/Conclusions of Law, with attached exhibits referenced therein:** Following the conclusion of trial, counsel shall submit in both hard copy and in electronic Word Perfect format (such as on disc or email to RCE53@courts.state.ny.us). All referenced exhibits must be attached to the hard copies. Hard copies should be sent **directly to chambers, AND must be E-filed.**
12. **Discarding of Trial Materials:** All trial materials must be removed from the courtroom within ten (10) business after the conclusion of trial, or they will be discarded.