

HON. KATHLEEN WATERMAN-MARSHALL
SUPREME COURT, NEW YORK COUNTY
IAS PART 31
111 Centre Street, Courtroom 623
New York, New York 10013
[Part 31 Virtual Courtroom](#)

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CALENDARS

- **DISCOVERY CONFERENCES** **Tuesdays - Afternoons***
Preliminary Conference, Compliance Conference, Status Conference
**In-person discovery conferences are only as requested, where there is a dispute, or as scheduled by the Court.*
- **MOTIONS** **Tuesdays – Mornings**
All motion argument/conferences are in-person unless otherwise directed by the Court.

GENERAL

*To create opportunities for attorneys whose court participation enhances diversity in the bar or who are admitted to practice fewer than five years, courtroom participation of such attorneys is **strongly encouraged**. This could be achieved by giving a less senior, knowledgeable colleague speaking and leading roles in the courtroom, such as the oral argument on a motion for which they prepared the papers, or taking the lead in a discovery or settlement conference.*

Counsel are expected to be familiar, and strictly comply, with those parts of the Uniform Rules for the Supreme Court, [22 NYCRR 202](#), that apply to a General IAS action or proceeding (i.e., excluding Rules for Guardianship and Commercial Division cases). In the event this Court's Rules are silent, the applicable Uniform Rules control.

Every single appearance is an opportunity to settle some, if not all, of the issues. Counsel who appear in Part 31 must be knowledgeable about the case and prepared to discuss open matters and areas for resolution. Settlement Conferences are readily scheduled upon request (see below).

Self-represented litigants may obtain free information about court procedures, and certain forms, and may receive legal referral information for bar associations or pro bono programs and the like, from the Help Center, 60 Centre Street, Room 119A, New York, NY 10007; Telephone: (646) 386-3120; Email: SFC-HelpCenterNY@nycourts.gov, or at CourtHelp (www.courthelp.gov), the New York State court systems website for unrepresented litigants.

COMMUNICATIONS

- **Ex parte communications** with the Court of any kind regarding substantive matters **are strictly prohibited**.
- Correspondence to the judge is *strongly discouraged*, other than as permitted in these Rules.
- **Letters:** Correspondence with the judge shall be by letter uploaded to NYSCEF, with copies simultaneously emailed to all counsel, self-represented parties, and the Law Clerks. Letters may be submitted to explain a discovery dispute to be decided at a discovery conference; request a pre-motion conference; or set forth a client's settlement position (settlement position letters are not uploaded to NYSCEF and instead are emailed to the judge).
- **Email:** Correspondence with the Part Clerk and the Law Clerks is by email only and must be addressed to all counsel and/or self-represented parties. Emails to the Part Clerk are to submit proposed Preliminary Conference, Compliance Conference, Status Conference Orders, and stipulations adjourning motion return dates and discovery conference dates; stipulations and notices withdrawing/resolving motions or actions; and to request scheduling of discovery conferences and settlement conferences. Emails to the Law Clerks are to request adjournment of motion

return dates where there is no consent, or to adjourn oral argument; and to provide stipulations and notices withdrawing/resolving motions or cases.

- **Telephone Calls:** Telephone calls to the Part Clerk should be infrequent and administrative in nature. Telephone calls to Chambers are permitted only in situations requiring immediate attention that cannot otherwise be obtained by letter or email.
- **Notifying Court of Settlement or Resolution:** Counsel must notify the Court as soon as practicable of any settlement or resolution of active cases or pending motions, by filing to NYSCEF a Stipulation or Notice reflecting same, with copy emailed simultaneously to the Part Clerk and Law Clerks.

DISCOVERY CONFERENCES AND CONFERENCE ORDERS

Preliminary Conference Order, Compliance Conference Order, Status Conference Order

- Parties shall meet and confer about all discovery matters and submit an agreed upon, draft Preliminary Conference Order (“PCO”) ([22 NYCRR 202.12](#)) for the judge’s review and signature by email to the Part Clerk by 12:00 noon on the day prior to the Preliminary Conference. After the judge reviews and signs the PCO, the Part Clerk will upload the signed PCO to NYSCEF. **Guidelines for PCO:**
 - EBT dates shall be no later than 4 months from the date of the PCO;
 - Compliance Conference shall be 6 months from the date of the PCO; and
 - Note of Issue date: 12 months from the date of the PCO for standard discovery track cases. 15 months from the date of the PCO for complex discovery track cases.
- **Joint Discovery Plan:** If the case is on a complex discovery track, counsel shall submit a joint Discovery Plan with PCO. The Discovery Plan shall contain: a statement of the issues in the cases and the discovery sought for each issue (both substance and temporal scope); proposed deadlines for disclosure; identification of categories of information that are not in dispute and those that are potentially in dispute; identification of non-party discovery and material witnesses, known and potential; and ESI issues. The Discovery Plan will be So-Ordered and uploaded to NYSCEF with the PCO.
- Parties shall meet and confer about outstanding discovery matters and submit an agreed upon, draft Compliance Conference Order (“CCO”) or Status Conference Order (“SCO”), as appropriate, for the judge’s review and signature by email to the Part Clerk by 12:00 noon on the day prior to the scheduled for the Conference. After the judge reviews and signs the CCO / SCO, the Part Clerk will upload it to NYSCEF. **Guidelines for CCO/SCO:**
 - Status Conference shall be 6 months from the date of the CCO/last SCO.

Appearances at Scheduled Discovery Conferences

- ***NO COURT APPEARANCE IS REQUIRED on any Preliminary Conference, Compliance Conference or Status Conference IF the parties have submitted an agreed upon conference order (PCO, CCO, SCO).***
- Parties who are unable to agree on the terms of any Conference Order (PCO, CCO, SCO), despite their good faith efforts to do so, shall appear in-person before the Court on the scheduled conference date with their respective proposed Conference Orders, prepared to discuss the issue for the Court’s ruling.
- In addition, the Court will schedule an appearance where one is requested, or the Court determines one is necessary. When scheduled for an appearance, the parties shall be prepared to discuss the factual and legal issues in dispute, dispositive issues, timetable for discovery and motion practice, exchange of electronically stored information (“ESI”), and timing of mediation and other forms of ADR ([22 NYCRR 202.12](#)).

Requested Conferences on Discovery Disputes

- ***The Court strongly discourages discovery motions.*** If pressing discovery issues/disputes arise between conference dates, which the parties have been unable to resolve despite good faith efforts, counsel may email the Part Clerk to schedule a conference before the judge on the next available conference day.
- One week prior to the conference, counsel may each submit a brief letter, no more than two (2) pages, directed to the judge’s attention and uploaded to NYSCEF, which outlines the discovery issue and demonstrates the good faith efforts to resolve it.

General Discovery Directives

- **Discovery Demands and Responses:** All discovery demands (i.e., Notices to Produce, Notices to Admit, and Interrogatories) and written responses thereto (*not including* the documents produced in response to the demands) must be filed to NYSCEF.
- **ESI:** If the production of ESI is an issue, the parties shall exchange an ESI protocol ([22 NYCRR 202.12\[e\]\[3\]](#)).
- **Failure to comply with any provision of a PCO, CCO, or SCO, may result in discovery sanctions, including preclusion, striking of a pleading, and the award of fees, as appropriate.**

MOTIONS

- All papers shall state the motion sequence number, when available.
- The Court strongly discourages discovery motions and will readily deny a discovery motion where a request for discovery conference in accordance with these rules (see above), has not been made.
- **Summary Judgment Motions:** Must be e-filed no later than **sixty (60) days** after filing of Note of Issue.
- **Required Pre-Motion Conference:** In order to permit the Court to resolve issues without motion practice, prior to filing a motion (other than one for: a default judgment, post-Note of Issue summary judgment, provisional relief or a stay [[22 NYCRR 202-8-d](#)], or a motion to be made within a statutory time limit), counsel must file a letter directed to the judge and uploaded to NYSCEF, requesting a pre-motion conference. The letter shall state the basis of the anticipated motion and may not exceed two (2) pages. All parties so served may serve a letter response, also directed to the judge and uploaded to NYSCEF, not to exceed two (2) pages, within two (2) days of service of the initial pre-motion letter request. The Part Clerk will then schedule a pre-motion conference on the next available motion date.
- **Adjournment of Motion Return Date:** The return date of a motion may be adjourned:
 - For up to 60 days, on consent, by stipulation uploaded to NYSCEF before the original return date (the Submissions Part notes the adjournment); or
 - For over 60 days, on consent, by stipulation emailed to the Part Clerk for the judge to So-Order (the Submissions Part will not adjourn a motion past 60 days without a So-Ordered stipulation); or
 - For any amount of time where consent is not given, by request to the Court via email timely sent to the Law Clerks, copied to all counsel and self-represented parties.
- **Oral Argument:** All substantive motions that are opposed and fully submitted will be orally argued before the judge in-person in Courtroom 623 (unless otherwise directed). Unopposed motions will not be scheduled for oral argument. After a motion is fully submitted, the Part Clerk will schedule the oral argument on the next available motion day, which date will be listed on eCourts.
 - ***If counsel is unavailable on the motion argument day, they must have another attorney cover the appearance.*** Parties may not *sua sponte* adjourn oral argument, even if on consent.
 - Request for adjournment of oral argument must be made to by email sent to the Law Clerks, copied to all counsel and self-represented parties, no later than one (1) week prior to the scheduled oral argument.
 - ***Failure to request and secure an adjournment of oral argument from the court will result in the motion being marked off on the appearance day.***
- **Settlement Authority:** All counsel appearing for oral argument are expected to have knowledge of the facts, procedural history, and substantive issues of the case and the authority to engage in settlement discussions.
- **Ex Parte Orders to Show Cause:** Requests for emergency provisional relief or a temporary stay, contained in a proposed order to show cause, will be heard by the judge on-the-record at a time scheduled by the Law Clerks. After deciding the emergency provisional relief or request for a stay, the Court will set the return date for the Order to Show Cause. Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the *Ex Parte* Office at (646) 386-3125.

SETTLEMENT CONFERENCES

- The Court will schedule a settlement conference where the parties are seriously ready and willing to settle, upon request by email to the Part Clerk addressed to all counsel and self-represented parties.
- Two days prior to the settlement conference, each side shall e-mail directly to the judge a letter, no longer than three (3) pages, outlining the substantive issues and their client's settlement position.

TRIALS

- When a trial is assigned to Justice Waterman-Marshall, the Part Clerk will schedule a Pre-Trial Conference, during which counsel, who must have authority to discuss settlement, shall be prepared to discuss the following:
 - General facts, claims and substantive issues of the case;
 - Number of witnesses for each side;
 - *In limine* motions and evidentiary issues;
 - Estimated length of trial;
 - Requests for audio/visual technology; and
 - Demands and offers.

CASES TRANSFERRED TO PART 31

- Where a case has been transferred to Part 31, administratively or by order, any previously scheduled future appearance dates, including conference dates, motion arguments, and hearing dates, are vacated.
- The Court will notify the attorneys of the new appearance date via Court Notice.
- For any motions that were orally argued before the prior jurist, counsel shall upload a transcript of the oral argument to NYSCEF.

MATRIMONIAL CASES

- All Matrimonial Cases still pending before the judge shall be governed by the Court's prior Part Rules, a copy of which is available upon request by email to the Part Clerk, as well as those parts of Uniform Rules for the Supreme Court, [22 NYCRR 202](#), that apply to a Matrimonial action.

PARENTAGE PROCEEDINGS UNDER FCA ARTICLE 5-C ("CHILD-PARENT SECURITY ACT")

- The Court reviews Parentage Petitions pursuant to FCA Article 5-C, including requests for anonymous caption, by applications filed through the *Ex Parte* Office.
- **Post-Birth Amended Orders:** Where a proposed Amended Order is filed to NYSCEF following the birth of the child, counsel shall inform the Court via e-mail to the Law Clerks.
- **Service of Signed Orders:** The Court does not serve copies of signed orders, including anonymity and parentage orders, upon any party or non-party such as agencies, offices, or governments. Counsel shall contact the County Clerk's Office for guidance on the service of signed orders, including service of orders upon offices/agencies issuing birth certificates, and to obtain official copies of orders.