

**HON. CATHERINE M. DIDOMENICO
PART RULES
SUPREME COURT, RICHMOND COUNTY
18 RICHMOND TERRACE RM 209
IAS PART 11**

Law Clerk: Kenneth Dale Esq. (718) 675-7880
Part Clerk: Robert Volpe (718) 675-7882
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Effective: 6/2020

RULES AND SAMPLE ORDERS FOR REMOTE CONFERENCES

Due to the current public health restrictions, cases are being conferenced remotely. You will receive notification through the NYSCEF E-filing system when your case has been selected for remote conferencing. Please follow the instructions in that notice, and prepare a proposed Order as indicated in the paragraph below.

At the end of these Rules are Sample Preliminary Conference and Compliance Conference Orders for use when your case is conferenced remotely. Please confer with one another and stipulate to terms and prepare a proposed Order to be submitted at least 24 hours *before* your remote conference is held. Please feel free to modify these sample orders to fit the specifics of your case as needed. If there are pending motions that are not fully briefed, please modify the same to include a briefing schedule.

GENERAL PART 11 RULES
(WHEN COURT FULLY RESUMES)

The Part 11 calendar will be called at **9:30 A.M.**, Cases will be conferenced when counsel for both sides are present. No applications for defaults will be considered before **11:00 AM**. Afternoon conferences will be called at **2:30 P.M.**

All adjournments require the prior approval of the Court. In order to request an adjournment, please contact chambers via conference call with counsel for ALL parties. Please note that adjournments of trial dates will generally not be granted absent emergency. Approved adjournments must be reduced to a written stipulation which shall be faxed to the Court.

Self-represented litigants who are seeking an adjournment may do so in writing, but all correspondence with the Court must be copied on ALL parties.

Upon receipt of a Court Notice, or other document generated by the Court, Attorneys representing parties in a matter involving a self-represented litigant(s) shall serve a copy of that Court

generated document on the self-represented litigant(s).

Applications for Default Judgments, or other default relief, will only be considered after the Court has been provided with an Affidavit of Service, and only after the Court has provided a Court Notice to the defaulting party to appear in Court.

CONFERENCES

Compliance Conferences will be heard on Thursdays and Fridays and Preliminary Conferences will be held on Fridays.

Counsel are directed to prepare the Preliminary Conference, or Compliance Conference Order upon arrival at the Courtroom. Cases will only be conferenced once the Order is completed.

Once the Order is completed inform the Part Clerk that your case is ready to be conferenced by the Court's attorney.

MOTIONS

Motions will be heard every Wednesday starting at **9:30 A.M.** Defaults will not be taken on motions until **11:00 A.M.**

Motion papers, answering affidavits and reply affidavits must be served in compliance with the CPLR. Courtesy copies of all E-Filed motions, opposition and reply papers are to be provided to the Court by delivering the same to Room 214 in 18 Richmond Terrace at least 2 days before the return date of the motion. All exhibits to be identified by tabs.

Unless stipulated by counsel for both sides, and approved by the Court, all motions will generally require oral argument before being submitted for decision.

Counsel are reminded that the CPLR does not provide for sur-reply papers or allow the presentation of papers or letters to the court after argument of a motion. Sur-replies, letters and the responses to such letters addressed to the substance of motions will not be considered absent prior approval of the Court.

Discovery Motions should not be filed absent prior approval of the Court. Approval may be requested via conference call with the Law Clerk. All discovery motions must include a "good faith Affirmation" indicating diligent steps taken to avoid the necessity of a discovery motion.

Summary Judgment motions must be made within 60 days of filing the note of issue. Summary Judgment motions shall not be made before the completion of discovery absent prior permission of the Court.

EX PARTE APPLICATIONS

Any application for temporary injunctive relief shall contain an affirmation demonstrating there will be significant prejudice to the party seeking the restraining order by giving notice. In the absence of

a showing of significant prejudice, an affirmation must demonstrate that a good faith effort has been made to notify the party against whom the restraining order is sought in accordance with 22 NYCRR 202.7. If a party seeks to file 202.7 notice they must first contact chambers by phone to discuss scheduling.

PRE-TRIAL CONFERENCE

The Note of Issue shall be filed prior to the pre-trial conference and in accordance with the Compliance Order.

At the Pre-Trial Conference Counsel are required to submit:

- (1) Marked Pleadings
- (2) A list of potential witnesses
- (3) A copy of any Deposition Transcripts that Counsel intends to use at trial.
- (4) Proposed Jury Charges and Verdict Sheets shall be presented to the Court with specific citations to the applicable New York Pattern Jury Instructions together with any proposed modifications.
- (5) To the extent possible, all motions in limine shall be made at the pre-trial conference, or prior to the commencement of trial.

TRIAL

Exhibits. Counsel shall pre-mark all exhibits in the order which they intend to introduce them at trial. Plaintiffs will number their exhibits and defendants will letter their exhibits.

Once a case has been assigned a trial date, it is presumed ready for trial. No consent adjournments will be accepted absent emergency. In the event the action is resolved prior to the trial date, counsel are expected to notify Chambers.

The Court is to be provided with duplicates of all items marked into evidence.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND PART IAS 11**

----- X

Plaintiff,

**PRELIMINARY CONFERENCE
ORDER**

- Against-

Index No.

Defendants.

----- X

As per a remote conference held on _____, all counsel have agreed to the terms of the following Order:

Document Discovery- The Bill of particulars is to be exchanged within _____ days. Both parties to respond to any outstanding requests for discovery and inspection within _____ days. Plaintiff to provide authorizations for all treating physicians within _____ days. Defendant to provide proof of excess insurance, or an Affidavit indicating the absence thereof within _____ days. Both parties to exchange information regarding any eyewitnesses, and or party statements within _____ days.

Depositions- Depositions of all parties shall be conducted on or before _____. Both parties have consented to the use of remote means, such as Zoom or Skype for Business to conduct the depositions at this time. In the event that the current public health emergency subsides before EBT's are conducted, the parties may modify this stipulation to request an in-person deposition.

Physical Examination- IME to be noticed within 20 days of the Plaintiff's EBT, held within 45 days of being noticed, and the resulting Report exchanged within 30 days of the examination having been held.

*Due to the current extenuating circumstances, any timeframes contained herein may be reasonably extended upon a showing of good cause.

Settlement Conference / Compliance Conference-

Matter is hereby adjourned for an early intervention settlement conference which shall be held on _____. Plaintiff to make a formal demand before this date and Defendant to obtain authority to settle.

Matter shall also appear for a compliance conference which shall be held on _____.

Dated: _____

SO ORDERED:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND PART IAS 11**

----- X

Plaintiff,

**COMPLIANCE
CONFERENCE
ORDER**

- Against-

Index No.

Defendants.

----- X

As per a telephonic conference held on _____, counsel for all parties have agreed to the terms of the following Order:

Document Discovery- All parties to respond to any outstanding discovery demands within _____ days of this Order. Specifically:

Depositions- All party EBT's to be conducted on or before _____. Parties hereby agree to conduct EBT's remotely, however, in the event that the current health crisis subsides, the parties may request an in-person EBT.

IME- Defendant to designate an IME physician within 20 days of the Plaintiff's EBT, conduct the examination within 45 days of it being designated, and the report is to be exchanged within 30 days of the examination having been held.

*Due to the current extenuating circumstances, the timeframes in this Order may be reasonably extended upon a showing of good cause.

Compliance / Settlement Conference- Plaintiff to make a formal demand before the adjourn date indicated herein, and the Defendant is hereby directed to appear on the adjourn date with authority to settle.

Matter is hereby adjourned to _____ for a further compliance/settlement conference.

Dated: _____

SO ORDERED
