

**SUPREME COURT of THE STATE OF NEW YORK
REGIONAL CHILD VICTIMS ACT PART
FOR THE NINTH AND TENTH JUDICIAL DISTRICTS
RULES**

Effective August 14, 2019

In accordance with 22 NYCRR §202.72 of the Uniform Rules for the Supreme and County Courts and CPLR §214-g the Regional Child Victims Act Part for the Ninth and Tenth Judicial Districts has been established by the Chief Administrative Judge, Lawrence K. Marks.

Presiding: **HON. STEVEN M. JAEGER, A.J.S.C.**
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A. INTRODUCTION TO THE REGIONAL CHILD VICTIMS ACT PART

Pursuant to the Child Victims Act (“CVA”) actions revived under CPLR §214-g shall be adjudicated in a timely fashion as set forth in 22 NYCRR §202.72. The Regional Child Victims Act Part for the Ninth and Tenth Judicial Districts (“**CVA-R**”) is designated to hear civil matters revived under the CVA and to adjudicate the cases as consistently and expeditiously as possible in the counties comprising the Ninth and Tenth Judicial Districts (Westchester, Putnam, Rockland, Orange and Dutchess Counties in the Ninth Judicial District; Nassau and Suffolk Counties in the Tenth Judicial District). Cases will remain on the docket of the county where filed but will be immediately assigned to the CVA-R for all pretrial proceedings, including conferences and motions. While the case is in the pretrial phase, it will also be assigned, as appropriate, to a parallel alternative dispute resolution (“ADR”) track with a designated judge for resolution by settlement. If the case is unable to settle, it will be assigned to the local Justice for trial.

B. GENERAL PROVISIONS

Counsel at all court appearances shall be fully familiar with the case, fully prepared to discuss pending matters competently, authorized to enter into substantive and procedural agreements on behalf of their clients, and authorized to enter into a disposition of the case. Any person who intends to appear without a lawyer in a case revived under CPLR 214-g is advised to review the information set forth at <https://www.nycourts.gov/courthelp/Safety/childSexAbuseCases.shtml>.

Counsel or self-represented parties shall arrive on time for all appearances in the CVA-R. Defaulting or late arriving counsel or parties, in the absence of an adequate excuse, may be subject to sanctions and/or costs. Counsel or self-represented parties may request permission to appear by phone conference call. All requests to appear remotely shall be made at least three (3) business days prior to any scheduled conference. It shall be at the discretion of the CVA-R whether such a request will be approved.

C. E-FILING

Any action commenced pursuant to the CVA is subject to mandatory electronic filing utilizing the New York State Courts Electronic Filing System (“NYSCEF”) pursuant to Uniform Rules §§202.5-b and 202.5-bb. In any matter assigned to the CVA-R, counsel and self-represented parties should familiarize themselves with the statewide e-filing rules. If a party has opted out of NYSCEF, a copy of any document filed via NYSCEF must be served upon that party by mail within the prescribed time periods and proof of service thereof filed via NYSCEF. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov. Questions relating to local e-filing procedures may be addressed to the Chief Clerk’s Office in the county where the action is venued.

Parties should consider the instructions on the NYSCEF website before e-filing actions revived pursuant to the Child Victims Act and be sure to select the case type “Child Victims Act” under the TORTS menu. Also, be aware that the initial entry of party names and any documents uploaded via NYSCEF will be visible to the public unless otherwise directed by the court.

Litigants filing CVA matters electronically who wish to commence the proceeding under an anonymous or abbreviated case caption or wish to file redacted documents or documents under seal should contact the local County Clerk for specific local procedures.

D. Interpreters, Accommodations and Special Needs

Counsel and any self-represented party shall immediately advise the CVA-R Clerk if the services of a foreign language interpreter are required for any party or witness, or if any accommodations or special equipment are required for any party or witness who is hearing-impaired or has special needs.

E. Inquiries and Scheduling

All questions or other inquiries regarding a matter pending in the CVA-R shall first be addressed to the CVA-R Clerk. A party seeking an adjournment shall do so by request transmitted either by NYSCEF or by e-mail or fax to Chambers on Justice Jaeger's Request for Adjournment Form. No inquiries shall be directed to the local Justices' chambers in any county. Correspondence regarding scheduling, only as expressly permitted herein, may be filed and transmitted to other parties by NYSCEF or e-mail or fax. Chambers does not accept papers of any kind, except requests for adjournments, by email or fax transmission without prior Court approval or as set forth herein.

F. Alternative Dispute Resolution

The CVA-R encourages the parties to participate in ADR and consider options apart from conventional litigation to resolve their dispute. To decrease costs to the parties, reduce delays and improve case outcomes, during the pretrial phase the case may be assigned to a parallel ADR track and to a designated judge for mediation.

An initial mediation session shall be scheduled in the Preliminary Conference Order to be held before the CVA-R Justice or Court Attorney/Referee within thirty (30) days of the Preliminary Conference Order. Initial mediation sessions shall be conducted generally at the same time and date as the first compliance conference.

G. Preliminary Conferences

Preliminary conferences shall be conducted generally on Tuesdays, Wednesdays, and Thursdays at 2 p.m. The CVA-R will give notice by NYSCEF of the preliminary conference date and time. Parties seeking an adjournment on consent must submit a request at least two (2) business days prior to the preliminary conference. The request shall be made through NYSCEF or by e-mail to Chambers. Any request shall include two (2) proposed alternative dates for rescheduling the preliminary conference, which dates shall be no later than ten (10) days following the scheduled preliminary conference. The CVA-R will give notice by e-mail or NYSCEF to the parties whether the request has been granted.

Pursuant to 22 NYCRR §202.12 (c), the matters to be addressed at the preliminary conference shall include the simplification and limitation of factual and legal issues; establishing a timetable for the completion of all disclosure proceedings; establishing the method and scope of electronic discovery; the addition of other necessary parties; and settlement of the action.

Pursuant to 22 NYCRR §202.72, counsel for all parties shall consult prior to the preliminary conference on all issues likely to be addressed at the conference, including but not limited to (1) resolution of the case in whole or in part and early ADR; (2) outstanding issues relating to insurance coverage of the parties; (3) outstanding discovery issues, including the voluntary informal exchange of information for settlement purposes; (4) scheduling; (5) anticipated use of experts; (6) anticipated requests to obtain records from earlier cases related to the allegations in the revived case; and (7) adoption of a confidentiality order.

The Court or Court Attorney/Referee shall conduct the preliminary conferences and establish a schedule for the completion of discovery and all pre-trial proceedings no later than three hundred and sixty-five (365) days from the preliminary conference consistent with 22 NYCRR §202.72. In setting said schedule, the Court will be mindful of the issues set forth above and with the goal of timely adjudication of such actions pursuant to CPLR 214-g.

At the conclusion of the preliminary conference, a Preliminary Conference Stipulation and Order in a form consistent with the requirements of 22 NYCRR §202.12 will be issued.

The parties may submit a preliminary conference stipulation no later than five (5) business days before the scheduled conference date for the Court to approve and so-order. All parties must appear on the scheduled date if the Court declines to approve and so-order the stipulation.

Counsel and parties are cautioned that the preliminary conference order is to be followed, absent demonstrated good cause. Lack of diligence will not be regarded as a sufficient excuse. Failure to comply with the terms of the preliminary conference order and/or making frivolous motions may result in the imposition of costs or other sanctions on the offending party (22 NYCRR §202.12 [f]).

In the event a motion is e-filed with an RJl prior to a request for a preliminary conference, a preliminary conference will be scheduled while the motion is pending. Unless otherwise directed by order of the Court, there shall be no stay of disclosure pursuant to CPLR §3214 in all CVA-R cases. The parties are cautioned that they will be expected to complete all discovery within the deadlines and discovery shall not be stayed or otherwise extended due to the pendency of any motions.

H. COMPLIANCE/STATUS CONFERENCE RULES

Compliance/Status Conferences Generally

To ensure that discovery proceeds expeditiously, a compliance/status conference in the CVA-R shall be scheduled approximately thirty (30) days after the preliminary conference has been held or the preliminary conference stipulation has been so-ordered. Thereafter, compliance/status conferences shall be scheduled approximately every thirty (30) days to sixty (60) days until completion of discovery. Compliance/status conferences shall be conducted generally on Mondays, Tuesdays, Wednesdays, and Thursdays at 9:30 am.

Parties may seek an adjournment of a compliance/status conference by NYSCEF or e-mail to the CVA-R Clerk at least three (3) business days prior to the scheduled conference. The request shall include two (2) proposed alternative dates for

rescheduling the conference, which dates shall be no later than ten (10) days following the previously scheduled conference. The CVA-R will advise the parties by NYSCEF or e-mail if the request has been granted and of any adjourned conference date. The parties are cautioned that any adjournment of the conference will not excuse a failure to provide discovery or to adhere to the preliminary conference order.

Compliance/status conferences will be conducted by the Court or a Court Attorney-Referee. The Court may, if discovery is not complete, and under compelling circumstances, extend the time to complete discovery, but the parties are cautioned that such extensions shall not be the norm and further extensions may not be forthcoming. Requests for modifications of discovery schedules shall be addressed ONLY at a compliance conference. If assistance is required concerning any discovery issue, the parties shall request a compliance conference in a timely manner. The Court will not entertain requests to extend court-ordered discovery deadlines or respond to discovery disputes submitted by NYSCEF or e-mail.

Discovery materials are not required to be filed via NYSCEF. However, in any action subject to e-filing, parties and non-parties producing materials in response to discovery demands may enter into a stipulation authorizing the electronic filing of discovery responses and discovery materials to the degree and upon terms and conditions set forth in the stipulation.

The parties must comply with the statutory and court rules regarding the redaction of social security numbers and the omission or redaction of confidential personal information.

I. MOTIONS

Motions to proceed under an anonymous or abbreviated case caption

Motions to proceed under an anonymous or abbreviated case caption shall be heard by the designated CVA justice in the County where the action is commenced. All other pre-trial motions will be decided by the Regional Child Victims Act Part (CVA-R) Justice.

Pre-Motion Conference for Discovery Motions

Nothing in these rules shall be construed to prevent or limit counsel from making any motion deemed appropriate to represent a party's interests. However, to foster the just, expeditious, and inexpensive resolution of discovery disputes, **a pre-motion conference (by phone or in person) must be held** in order to permit the Court the opportunity to resolve issues before discovery motion practice ensues. Any party seeking a pre-motion conference may request same by NYSCEF or e-mail to Chambers.

Discovery Motions

No motions (including cross-motions) relating to discovery may be interposed until the preliminary conference **and** a pre-motion conference has been held. Counsel/parties will be expected to attend such conferences and attempt in good faith to resolve all discovery disputes. In the event motion practice is necessary, a briefing schedule will be established by the Court. Motions e-filed after the preliminary conference has been scheduled and before a pre-motion conference has been held may be denied unless there is shown good cause why such relief is warranted before the conference is held (22 NYCRR §202.12 [h]).

Failure to make a motion within the time allowed by the briefing schedule may result in a waiver of the issues that were to be raised by the motion. Failure to oppose a motion within the time allowed by the briefing schedule may result in the motion being decided without consideration of opposition.

All discovery motions shall be made returnable only on Mondays or Fridays at 9:30 am and shall be on submission only unless the Court orders otherwise. Any motion not filed in accordance with the Uniform Rules and these Part Rules will not be addressed by the CVA-R and an immediate conference will be scheduled.

Motion to Vacate Note of Issue

Applications seeking to vacate a note of issue or to otherwise challenge readiness for trial shall be made within twenty (20) days of the service of the note of issue as required by 22 NYCRR §202.21(e). Applications made after the twenty (20) day period has expired shall be denied except in the unusual circumstances recognized

by 22 NYCRR §202.21(d). Any such motion shall be made returnable and heard in the CVA-R. However, no such motion shall be interposed unless a pre-motion conference has been requested and held.

Motion Practice Procedures

The CVA-R requires a working copy of all motion papers, exhibits, letters, stipulations, requests for adjournments, transcripts and proposed orders. The working copy shall be delivered to the CVA-R in Mineola, New York. Working copies must include a copy of the NYSCEF confirmation notice. The notice must be firmly fastened to the front cover page of the working copy submission and must otherwise comply with the NYSCEF protocol. Working copies that do not include a NYSCEF confirmation notice may be rejected. Working copies shall be mailed or hand-delivered so as to be received by the CVA-R no later than 48 hours prior to the return date or notice of settlement date, or as otherwise directed or permitted by the Court. Should counsel fail to file a document required to be filed with NYSCEF, that document will not be part of the County Clerk's file and will not be reviewed by the CVA-R.

All non-discovery motions shall be made returnable Tuesdays, Wednesdays, and Thursdays at 9:30 am, and shall be on submission only unless the Court directs otherwise. Any request for oral argument must be made on the first page of the motion, the order to show cause, or the answering papers (see Uniform Civil Rules, § 202.8 [d]). The Court will consider the request and advise the parties if the request has been granted.

All motion papers submitted to the Court, including orders to show cause, must be legible, securely bound, include external exhibit tabs, and indicate the motion sequence and index number of the case. Except for good cause shown, no affidavit or affirmation shall exceed twenty (20) pages (double spaced) in length. Papers in excess of this limit may be rejected and returned to counsel. All proposed orders must be submitted to the Court as a separate document, rather than bound into motion papers.

When an order to show cause is to be presented to the Court which seeks temporary injunctive relief, including but not limited to a stay or a temporary restraining order, counsel for the moving party or any self-represented party shall comply with Uniform Rules §202.7(f) regarding notice. If an order to show cause is signed by the

Court, a copy of it shall be uploaded to NYSCEF or, if the moving party is self-represented, or has opted out of NYSCEF, it will be provided by email, fax, or mail. If appearances are required on the return date of the motion, the Court will so indicate on the order to show cause. Otherwise, no appearance shall be required.

The Court will not consider letter submissions with respect to motions. Sur-reply papers and other additional submissions will not be considered without prior approval of the Court.

J. Trial Readiness/Certification Order and Note of Issue

When discovery is complete or has been deemed waived, the CVA-R shall issue a trial readiness/certification order pursuant to which Plaintiff will be ordered to serve and file by NYSCEF a note of issue and certificate of readiness within ten (10) days. Where all parties agree that discovery is complete and request the issuance of a trial readiness order without the necessity of an appearance at a compliance conference, they may submit by NYSCEF a fully executed trial readiness/certification stipulation to the CVA-R to be so-ordered. Plaintiff shall serve a copy of the note of issue and certificate of readiness within ten (10) days of entry of the trial readiness order upon any party who has opted out of NYSCEF, and file proof of service thereof by NYSCEF.

K. DEADLINE FOR POST-NOTE OF ISSUE SUMMARY JUDGMENT MOTIONS

The deadline for any party to serve and file a post-note of issue summary judgment motion shall be thirty (30) days following the filing of the note of issue.

Opposition papers must be filed within thirty (30) days of service and filing of motion papers. Reply papers, if any, must be filed within five (5) days following filing of any opposition papers. If a party has opted out of NYSCEF, a copy of any motion for summary judgment, opposition papers, reply papers must be served upon that party within the prescribed time periods and proof of service thereof filed via NYSCEF.

The return date for a motion for summary judgment may not be adjourned more than two (2) times and such return date may not be extended for more than a total of twenty (20) days inclusive of filing of opposition and reply papers. Any request for an adjournment shall be made on the Court's Request for Adjournment Form sent to

Chambers by email or fax at least two (2) business days prior to the applicable deadline for filing of papers.

Counsel are cautioned that pursuant to 22 NYCRR §202.72, dispositive motions shall be fully submitted within ninety (90) days of the conclusion of discovery and no extensions or adjournments beyond the ninety (90) day period will be granted. Counsel are further cautioned that untimely motions cannot be made timely by denominating such as cross-motions. Untimely motions or cross-motions shall be denied and untimely opposition or reply papers will not be considered.

In no event shall an adjournment be granted after the time to submit opposition or reply papers has expired. It is incumbent upon counsel or the parties to ensure that any request for an adjournment has been received and approved by the CVA-R within the requisite time period.

L. SETTLEMENT CONFERENCES

Settlement Conferences may be held at the request of the parties and in the discretion of the Regional CVA-R Justice to promote the just and expeditious resolution of a case through settlement. The parties are cautioned to arrive on time for the settlement conference. Attorneys attending the settlement conference must bring a copy of all documents relevant to the issues of liability and damages, be fully familiar with every aspect of the case, and be expressly authorized to engage in meaningful settlement negotiations. Attorneys must have evaluated the case prior to the settlement conference date and be prepared to negotiate in good faith to effectuate a reasonable settlement. Absent good cause, plaintiff(s) and defendant(s) must be reachable by phone to consent to any settlement. No answering services will be permitted. Plaintiff(s) and defendant(s) may attend such conferences with counsel. Generally, settlement conferences will be held on Tuesdays and Fridays at 9:30 am. before the Court or the Court Attorney-Referee or as otherwise directed by the Regional CVA-R Justice.

Counsel and any self-represented party shall immediately advise by e-mail no later than ten (10) days prior to the settlement conference if the services of a foreign language interpreter are required for any party, or if any accommodations or special equipment are required for any party who is hearing-impaired or has any special needs.

The parties are cautioned that a stipulation of discontinuance or settlement must be filed via NYSCEF before the case is marked settled and disposed. If a stipulation of discontinuance or settlement is not filed via NYSCEF prior to a scheduled appearance, the parties must appear on the scheduled conference date to report to the Court the status of any such settlement. In the event the parties reach a settlement agreement on the record and require time to effectuate the filing of a stipulation of discontinuance or to address settlement-related issues such as liens, the matter may be set down for an appearance to ensure that discontinuance is effectuated in accordance with the applicable CPLR provisions. However, the pendency of settlement negotiations will not delay, adjourn, or in any way affect the scheduling of proceedings.

M. TRIAL PRACTICE

Preferences

Any party claiming a preference under CPLR 3403(7) may apply to the Court in the manner prescribed by that section.

Trial Location

Trials will be conducted by the designated CVA Justice in the County where the action is venued. Plaintiff shall serve a copy of the Note of Issue and Certificate of Readiness upon the local CVA Justice or Clerk and that Court shall thereafter send a notice scheduling trial to the parties. Counsel or self-represented parties should refer to the Individual Part Rules of the assigned CVA Justice for specific trial rules.

Pursuant to 22 NYCRR §202.72, all trial dates will be scheduled within sixty (60) days of the filing of the note of issue, except with leave of court on good cause shown; or if dispositive motions have been filed, within sixty (60) days of the decision of those motions.