

**INDIVIDUAL PRACTICES OF JUSTICE ELIZABETH EMERSON
PART 44**

1. Commercial Division Rules

All parties should familiarize themselves with the Commercial Division Rules and Suffolk County's E-Filing Protocol, available at www.nycourts.gov

2. Scheduling

Parties should address questions about scheduling appearances or adjournments to the Part Clerk, at (631) 852-2139.

Please be advised that counsel/litigants must obtain Court permission to adjourn a status conference. Except emergencies, such permission must be obtained no later than two business days in advance of the scheduled appearance. Counsel must make every effort to obtain consent to an adjournment from all adversaries in the matter and be prepared to communicate that consent to the Court. If counsel is unable to get consent, counsel must send a brief letter to the Court with a copy to all adversaries, explaining the circumstances necessitating the adjournment and the reason consent could not be obtained. Counsel/Litigants must wait at least 24 hours to allow for the adversary to respond to the request before contacting the Court.

3. Mediation

If, at any point, the parties decide that they could benefit from Commercial Division ADR or other mediation, they should write a joint letter to the Court asking to be referred to ADR or such other mediation. In that letter, they should state whether they prefer that discovery continue or be stayed during the mediation process.

Further information on the Court sponsored ADR program can be found at www.nycourts.gov

4. Motion Practice

After compliance with Rule 14 of the Commercial Division Rules whereby counsel have consulted with one another in a good faith effort to resolve all disputes, the parties may make a written request for a conference with the Court.

Discovery disputes should first be addressed through a court conference prior to the filing of a motion. If the Court is unable to resolve the dispute through a conference, then leave will be given for the parties to file the appropriate motion. The failure to abide by this rule may result in a motion being held in abeyance until the Court has an opportunity to conference the matter.

For electronically filed motions, the parties shall submit to chambers working copies of all papers in support of and in opposition to the motion, including any previously e-filed documents on which they rely, properly backed with exhibit tabs and confirmation notices. The failure to follow the E-Filing Protocol or to submit working copies may result in an adjournment of the motion or rejection of the papers in the Court's sole discretion.

If counsel wishes to receive a copy of the decision, a self-addressed stamped envelope must be provided to the Court.

All dispositive motions require a pre-motion conference with the Court. Counsel must send a letter to the Court, on notice to all adversaries, requesting a pre-motion conference be scheduled.

With respect to Rule 11(d), of the Commercial Division Rules, the presumption is that discovery is NOT stayed by the filing of a dispositive motion unless otherwise directed.

All citations must include a cite to the official reports.

The Court will notify the parties if oral argument is required after papers in support of and in opposition to the motion have been submitted.

If oral argument is held, at its conclusion the movant is to order the transcript and have a copy sent to the Court. The motion will not be deemed *sub judice* until a transcript has been received.

5. **Trial Rules**

Pre-trial memoranda and briefs are to be submitted in all matters at least seven business days prior to the start date of the trial.

No electronic media devices will be permitted absent express permission from the Court. Requests should be made to the Court in writing, addressed to the Clerk of the Part, and the reasons for the request must be clearly stated.

No adjournments of the trial date will be granted absent exceptional circumstances. All requests must be made in writing to the Court and not by a telephone call to the Clerk of the Part.

All materials used during the trial must be removed within 48 hours of the conclusion of trial. Any materials not timely removed will be discarded.

All trials require full compliance with directives set forth in the Pre-Trial Order. Additionally, if the trial is by jury, counsel will be required to submit a proposed verdict sheet

and proposed charges seven business days prior to the trial.

6. **Communications with the Court**

Parties are to provide the Court with courtesy copies of all pleadings when the action is assigned to this Justice.

Neither Justice Emerson nor any of the court attorneys assigned to the part will speak to any litigant or counsel *ex parte*. Upon telephoning chambers, counsel must get all parties on the phone before placing the call to the Court.

No party shall send correspondence to chambers without first contacting the adversary, trying to resolve the problem and telephoning chambers. With permission of the Court, a party may send correspondence to the Court via fax to (631) 852-3732 or U.S. mail or overnight delivery, but not by more than one method of delivery. Correspondence shall be limited to a short summary of the issue to be resolved and shall not contain exhibits or the substantive arguments of the parties. Lengthy correspondence containing exhibits and/or substantive arguments will not be considered by the Court.

7. **Appearances**

An appearance by an attorney with knowledge of the case and authority to bind the party is required on at all conferences.

Pro Se litigants shall be notified of all conference and Court appearances, and shall be served with all papers.

8. **Disposition**

Counsel must advise Chambers if a case has settled and notify the Court if such a case has any pending motions.