

**I.A.S. Part 4
Commercial Division Part B**

JUSTICE MARGUERITE A. GRAYS

Courtroom 66
718-298-1214
718-298-1107 (Fax)

NO TELEPHONE INQUIRIES CONCERNING MOTIONS OR APPLICATIONS MAY BE
MADE TO CHAMBERS.

**All such inquiries must be made to Motion Support (718-298-1009) or to the Ex Parte
Office (718-298-1018), or to the Clerk of the Part (718-298-1214).**

DO NOT MAKE ANY INQUIRES VIA E-MAIL TO THE COURT.

MOTIONS

ALL **NON-COMMERCIAL DIVISION** MOTIONS NOTICED TO BE HEARD ARE **RETURNABLE IN THE CENTRALIZED MOTION PART (CMP)**. All parties are required to comply with both the CMP Rules and the Part 4 Rules regarding "Motion Papers". **THE COURT WILL NOT CONSIDER PAPERS SENT TO CHAMBERS OR TO THE PART AFTER SUBMISSION OF THE MOTION.** All questions regarding motions returnable in the CMP **shall** be directed to the CMP at (718) 298-1728.

Effective APRIL 4, 2017, ALL COMMERCIAL DIVISION MOTIONS NOTICED TO BE HEARD ARE RETURNABLE IN COMMERCIAL DIVISION PART B. The following Rules apply to all Commercial Division motions returnable in Commercial Division Part B:

1. Motions shall be heard on **Tuesdays at 10:00 a.m.** There will be two calls of the motion calendar. The **second call** of the calendar will be held at **11:00 a.m.**
2. **The words "COMMERCIAL DIVISION" shall be clearly and conspicuously marked on the Notice of Motion or Order to Show Cause by the moving party. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE MOTION BEING CALENDARED IN THE CMP.**
3. The moving papers shall be filed in the Motion Support Office at least five business days prior to the scheduled return date in order to be placed on the Part 4 motion calendar for the day noticed. No motion relating to disclosure will be accepted without an affirmation of good faith as required by 22 NYCRR §202.7.
4. Answering papers, including cross-motions, affirmations in opposition and reply

affirmations, will be accepted only on the return date in the Part. **THE COURT WILL NOT CONSIDER PAPERS SENT TO CHAMBERS OR TO THE PART AFTER SUBMISSION OF THE MOTION, NOR CROSS-MOTIONS THAT DO NOT HAVE PROOF OF PAYMENT OF THE APPROPRIATE FEE (CPLR §8020(a)).**

5. Appearance of counsel and pro se litigants is **MANDATORY** on all disclosure motions (i.e. Motions to Vacate and Strike a Note of Issue, Motions to Strike Pleadings, Motions to Preclude). The motions will be heard for all purposes in the Part on the return date. On that date, the motion will be conferenced by the Justice or her Law Clerk with the expectation that the issues will be resolved by stipulation. Papers will not be accepted from calendar service inasmuch as a personal appearance by counsel and pro se litigants is required.

6. Appearance of counsel and pro se litigants is also **MANDATORY** on all Orders To Show Cause, and motions which seek to continue a temporary restraining order or to extend the time to file a note of issue. Papers will not be accepted from calendar service inasmuch as a personal appearance by counsel and pro se litigants is required.

7. **Appearances are not required on any other motions except as set forth above, or unless otherwise directed by the Court.**

8. Applications for adjournments on consent, or otherwise, will be entertained only at the call of the calendar, and **will not be entertained by mail, e-mail, fax or telephone.** Calendar service or non-attorneys will not be permitted to make applications for adjournments. Applications for an adjournment will be granted as a matter of right for the first time but for no more than three weeks. No further applications will be granted without permission of the Court. Counsel must make every effort to notify their adversaries of their intention to seek an adjournment.

9. **Courtesy copies of moving and answering papers need not be provided except as set forth below.**

10. The Court further directs that any attorney appearing on a case for any purpose **MUST** be familiar with the case, ready and authorized to resolve any and all issues.

MOTION PAPERS

All motion papers submitted shall be in compliance with 22 NYCRR §202.5, concerning papers filed with the court. In addition to the requirements of 22 NYCRR §202.5, all pages are to be numbered and all paragraphs are to be numbered. **All exhibits are to be preceded by a numbered exhibit tab which protrudes from the stack of papers. All submissions are to be securely fastened so as to prevent the papers from separating from each other and becoming lost. FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN REJECTION OR DENIAL OF THE OFFENDING SUBMISSION.**

Any party annexing a deposition transcript in excess of one hundred (100) pages as an exhibit to a motion, shall submit such transcript on a disc, in lieu of paper, with the motion.

Any party who files a motion and/or opposition thereto pursuant to the **NYS Courts Electronic Filing (“E-filing”)** shall provide this Court with working copies of the documents filed electronically, which shall be submitted to the CMP or Commercial Division Part B Clerk on the first noticed return date of the motion. Each working copy shall include, firmly affixed thereto, a copy of the Confirmation Notice received from the NYSCEF site upon the electronic filing of such document (22 NYCRR §202.5-b(d)(3)(ii)).

If the Court directs that an order be settled or submitted on a motion in an E-filed case, the proposed order and any proposed counter-order shall be filed with the court on-line with proof of service. **Working copies of all proposed orders MUST be submitted to the Motion Support Office before an order can be reviewed by the Court.** As appropriate, the Clerk may make changes on the proposed order/counter-order by hand.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN REJECTION OR DENIAL OF THE OFFENDING SUBMISSION OR THE SUBSTANTIAL DELAY IN PROCESSING THE SUBMITTED DOCUMENTS.

TRIALS

1. All counsel must submit to the court, prior to the commencement of trial, marked pleadings, a copy of the Bill of Particulars, a witness list, exhibit list, proposed jury instruction and a proposed verdict sheet.
2. Motions in Limine (**non-Commercial Division cases**) – On the first appearance in the Part for trial, any party intending to make a motion in limine shall submit a **brief** written affirmation setting forth the nature of the application and any supporting statutory or case law. The party shall furnish the court with an original and one copy and provide counsel for all parties with a copy.
3. The trial will be conducted on a continual daily basis until conclusion.
4. No adjournments or delays during trial will be allowed unless exigent circumstances exist.

Commercial Division cases:

5. The call of the Pre-Trial Conference calendar and the Trial calendar will be held on **Mondays, at 10:00 a.m.**, unless otherwise directed.
6. The parties shall comply with the relevant pre-trial conference and trial rules as required by 22 NYCRR §202.70, and **must supply the Court, at the time of the Pre-Trial Conference, with a copy of the marked pleadings.**
7. Motions in Limine - Any party intending to make a motion in limine shall fully comply with Rule 27 of 22 NYCRR §202.70. Motions in limine which are not timely made will not be considered by the Court.
8. Where a party is represented by counsel, an attorney fully familiar with the case **shall** appear

at the Pre-Trial Conference.

SETTLEMENTS AND DISCONTINUANCES

If an action is settled, discontinued or otherwise disposed of, counsel shall immediately inform the court by submission of a copy of the stipulation or a letter directed to the Clerk of the Part. All Stipulations of discontinuances must be accompanied by proof of payment of the appropriate fee (CPLR §8020(d)(1)).

DECISIONS

Any attorney or pro se litigant desiring a copy of the Court's decision must submit a stamped, self-addressed envelope with the motion papers or at the conclusion of trial.

PRELIMINARY CONFERENCE

A preliminary conference shall be scheduled (1) automatically by the Court within 45 days after filing a Request for Judicial Intervention, pursuant to 22 NYCRR §202.12(b); or (2) upon filing a written Request for a Preliminary Conference with the Clerk's Office, Room 140, in compliance with 22 NYCRR §202.12(a); or (3) when an appropriate notice is filed in malpractice or certiorari cases pursuant to 22 NYCRR §202.56 and §202.60; or (4) in compliance with 22 NYCRR §202.70 - Rule 7 for Commercial Division cases.

All preliminary conferences will be held on Monday at 11:30 a.m. at the Preliminary Conference Part, **Room Number 314**, of the courthouse, and they are presided over by the court-appointed referee, unless otherwise directed by the Court. Failure to appear at the scheduled preliminary conference may result in discovery being ordered ex-parte or any other appropriate sanction including preclusion or dismissal.

Any inquiry pertaining to preliminary conferences shall be made to the Preliminary Conference Part at (718) 298-1046.

COMPLIANCE CONFERENCES

For all **Non-Commercial Division cases**, compliance conferences shall be held on the date scheduled in the Preliminary Conference Stipulation and Order. Conferences shall be held before Justice Joseph Esposito in Room 313.

For all **Commercial Division cases**, compliance conferences shall be held on the date scheduled in the Preliminary Conference Stipulation and Order. Conferences shall be held before Justice Grays in Courtroom 66. The call of the calendar will be held on **Tuesdays at 11:30 a.m.**

[2/28/17]