

### Practices for Part 3

**Courtroom hours are from 9:15 a.m. to 4:30 p.m.**

**Lunch recess is from 1 p.m. to 2:15 p.m., with the courtroom closed at that time.**

**Due to financial constraints, these hours are strictly observed.**

1. All documents submitted to the court for review or signature, whether stipulations, orders or letters, must contain, on all pages subsequent to the first, a header bearing the case name, index number and page number out of the total number of pages. For example:

*Plaintiff v. Defendant*

*Index No. 600XXX/XX*

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2. Stipulations and other documents that are to be so-ordered must be provided in hard copy to the court.
3. The Part Clerk is unable to accept deliveries between 12:45 - 2:15 p.m. or after 4:30 p.m.
4. Parties are to bring copies of all prior discovery orders to each court appearance.

### **Communications with the Court**

1. Neither Justice Bransten nor any of her court attorneys will speak to any litigant *ex parte*.
2. All inquiries regarding appearances must be directed to the Part 3 Clerk, Ms. Regina Sgro, who can be reached at (646) 386-3287 between 9:30 and 12:45 p.m. and between 2:15 and 4:30 p.m. The only exception is for calls regarding adjournments of appearances.
3. Parties may contact chambers regarding adjournments of appearance. A party seeking an adjournment of any scheduled appearance or court-ordered date must receive court permission. Adjournments will not be permitted in the absence of a court-authorized stipulation, court order or a conference call to chambers with ALL parties on the line. The court prefers to receive calls to chambers for adjournments between the hours of 3 to 5 p.m.

*Requests for adjournments or extensions of time (a) must be made at least 48 hours prior to scheduled appearance or deadline; and (b) the party contacting the court must state: (i) the original date; (ii) the number of previous requests for adjournment or extension; (iii) whether prior requests were granted or denied; (iv) whether ALL other parties consent; and (v) assuming that ALL parties consent, two proposed alternative dates.*

4. A party will not be excused from a scheduled appearance without first seeking and receiving leave from the court.
4. Correspondence to the court must be e-filed, sent in hard copy to the Part 3 courtroom, Room 442, and sent to all parties. Letters, without exhibits, may also

be faxed to the court's chambers, in addition to being e-filed. The Court's fax number is 212-374-1475.

5. Correspondence to the court should include each party recipient's email address.

### **Requests for Admission Pro Hac Vice**

1. All requests for admission must be made by order to show cause or motion and shall be accompanied by an affidavit in support from a member of the Bar of the State of New York and an affidavit and a recent certificate of good standing from the applicant.
2. The applicant's affidavit must advise the court as to the total number of times the applicant has been admitted pro hac vice in New York. The applicant's affidavit must also advise the court whether he/she has ever been or is presently subject to a disciplinary proceeding.
3. It is preferred that the parties stipulate to the pro hac vice admission. Inclusion of a stipulation signed by all parties with the motion papers will greatly shorten the application time period.

### **Confidentiality Order**

1. Any order regarding the confidential exchange of information shall be based on the Proposed Stipulation and Order for the Production and Exchange of Confidential Information prepared by a committee of the New York City Bar Association for use in the Commercial Division, available on the Bar Association's website at:  
  
<http://www.nycbar.org/pdf/report/ModelConfidentiality.pdf>
2. If the parties believe there is good cause to deviate from the above model, the parties shall submit: (1) a copy of the parties' proposed confidentiality order; (2) a redline of the document showing the deviations from the form listed above at Point One; and, (3) a letter to the Court explaining the reasons for such changes. Any opposition to the proposed changes shall be submitted no later than three business days after the proposed order, redline, and accompanying letter are sent to the court.
3. The sealing of any document, or portion thereof, submitted to the court must be done by motion showing proper reason to seal, and "good cause" therefor, pursuant to 22 NYCRR § 216.1.

### **Discovery Disputes and Conferences**

1. Discovery disputes are preferred to be resolved through a court conference – not through motion practice – unless otherwise directed. The court conference will most often be an arranged conference call with chambers, where all parties are to be on the line and then place a call to chambers.
2. For all disputes, the parties shall outline their position in a pre-conference letter to the court. After the submission of letters, the parties are to call chambers to arrange a time for a conference call.
2. If satisfactory resolution is not achieved through a court conference, then leave will be given for the parties to file the appropriate motion. 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.

### **Motion Practice**

1. With respect to Commercial Division Rule 24(c), counsel is only required to advise the Court prior to making a discovery motion. Before contacting the Court, “counsel must consult with one another in a good faith effort to resolve all disputes about disclosure” (*see* Rule 14).
2. All motion papers are required to have the appropriate Motion Sequence Number to which they are related placed on the front page.
3. All courtesy copies submitted in connection with a motion must include the correct motion sequence number, be properly backed, and, where necessary, include proper bottom tabs.
4. All submitted papers are to have an e-file confirmation sheet attached to the back of the document, over the litigation back and facing out.
5. Absent compelling circumstances, all parties must be present when interim relief is sought.
6. At the conclusion of oral argument, the movant is to order the transcript and have a copy sent to the Court, delivered to the Part 3 Clerk, Room 442. The motion(s) will not be marked submitted for consideration until a transcript has been received.
7. Rule 19-a Statements of Material Facts are required when moving for or opposing summary judgment.
8. Affirmations submitted in support of or in response to dispositive motions must be separate from any memoranda of law submitted in relation to the motion. Affirmations should not include arguments of law.

9. All memoranda of law must include a Table of Contents and a Table of Authorities.
10. All footnotes in papers submitted to the court must be in 12-point font.

**Motions by Notice of Motion**

11. Courtesy copies of all e-filed papers and exhibits for motions returnable in Room 130, the Submissions Courtroom, must be delivered to Room 130. Courtesy copies for motions returnable in the Submissions Courtroom may not be accepted in the Part 3 courtroom absent prior permission from the court.

**Motions by Orders to Show Cause**

12. Courtesy copies of e-filed opposition and reply papers and exhibits related to Orders to Show Cause must be delivered to the Part 3 courtroom, Room 442, between the hours of 9:30 a.m. - 12:45 p.m. and 2:15 p.m. - 4:30 p.m, by the date specified in the Order to Show Cause. Courtesy copies may not be accepted during the lunch recess or after 4:30 p.m. Extra copies of papers will not be accepted, and it is not necessary to submit courtesy copies of an Order to Show Cause that has been signed by Justice Bransten

**Trial Rules**

1. No adjournments of the trial date will be granted absent exceptional circumstances. Requests for an adjournment must be made in writing to the Court and not by phone call to the Clerk of the Part.
2. Demonstrative evidence is not permitted without first obtaining the permission of the Court.
3. No electronic media devices will be permitted absent express permission from the Court. Requests should be made to the Court in writing and the reasons for the request must be clearly stated.
4. All materials used during the trial must be removed within 48 hours of the conclusion of trial. All materials not timely removed will be discarded.

**20 Days Prior to Jury and Non-Jury Trials**

5. At least twenty days prior to the start date of the trial the parties are to jointly submit:
  - (a) Pre-trial memorandum briefs.
  - (b) Proposed facts to be proven at trial.
  - (c) A list of witnesses each party expects to call at trial. The witness list must state whether each witness is a fact or an expert witness. If a witness is listed as an “expert,” state whether the parties agree or dispute that witness’s status as an expert for purposes of the trial.
  - (d) A list of exhibits that each party may use at trial. The exhibit list must state for each exhibit if that exhibit is agreed to or disputed by the parties as admissible evidence. Exhibits that are agreed to by the parties as admissible evidence will be immediately entered into evidence upon introduction at trial. Parties are to contact and work with the court reporter to mark exhibits in advance of trial.

**15 Days Prior to Jury and Non-Jury Trials**

6. At least fifteen days prior to the start date of the trial the parties are to each submit:
  - (a) Motions in limine.
  - (b) One copy of all exhibits to be used at trial. The parties should additionally be prepared to hand to the Court one copy of every document that is introduced at trial.

**10 Days Prior to Jury Trial**

7. If the trial is by jury, counsel will be required to submit proposed jury charges and a proposed verdict sheet. All submissions must be made in hard copy and on disk in WordPerfect 8 format ten days before trial.
  - (a) The Court will accept submissions of proposed opening jury charges for the Court to read to the jury upon the onset of the trial. Proposed opening jury charges must be made in hard copy and on disk in WordPerfect 8.

- (b) The court supervises jury selection. Parties may submit proposed questions for use by the court during jury selection.
- 8. The court will expect each party to make a three-minute presentation to the jury panel regarding its case at the beginning of voir dire.

**First Day of Trial**

- 9. Parties shall provide witness lists, a glossary of names and any unusual words and any acronyms they anticipate using during the trial to the court reporter the morning that the trial is set to begin.

(Updated 4/25/2013)