

RULES PART 202:
SUPREME & COUNTY COURT.

- EXTRACTS & HIGHLIGHTS -
NOT INTENDED TO BE COMPREHENSIVE.

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TERMS of Court are 4 week periods, 13 such periods a year. The Chief Administrator sets the dates, and specified the Parts.

Cases are assigned randomly to a Judge pursuant to the Individualized Assignment System (IAS), upon filing of a Request for Judicial Intervention (RJI). The Chief Administrator may except certain judges from the IAS system if they have heavy calendars, or will be designated "reserve".

The first party submitting papers to the court shall pay the fee, obtain an index number, and communicate that number to all other parties.

All papers submitted to the court shall have the index number on the outside cover sheet AND first page, to the right of the caption. The venue county, nature of papers, and assigned judge (if any) must also be specified.

Papers are submitted to the Clerk of Court at the designated office; or, if to be signed by a judge, to the clerk of the appropriate part. Such papers shall be addressed to the Judge, and also include the name of party/attorney submitting. If the Part Clerk be unavailable: papers MAY be submitted to the Judge, and filed with the Clerk as soon as possible.

For all **SPECIAL PROCEEDINGS**, "Clerk of Court" means **COUNTY CLERK**, and both the Court and County Clerk's office shall publicly post the requirement that papers be filed with - and fees paid to - the appropriate County Clerk.

Papers may be FAXED pursuant to a pilot program. Only Court of Claims, and certain Supreme Court actions regarding: Commercial Claims; Tax Certiorari; Conservatorship; and Mental Hygiene may be so filed. Participating counties are: New York; Westchester; Suffolk; and Monroe. The Clerrk may limit faxes to 50 pages, including exhibits, but NOT a cover sheet or credit card authorization form. The Clerk shall date stamp faxed papers; and fax back the 1st page by the next business day, with the index number. Papers are deemed filed when electronic confirmation of sending is received; except that if a fee required, it is only filed if accompanied by a valid credit card authorization form.

Filing By Electronic Means (FBEM) is also valid in certain cases: for Tax Certiorari proceedings in Supreme Court of Monroe, Westchester, New York, and

Suffolk counties. Also filings with the Commercial Division in those counties, plus Albany and Nassau. The parties must consent, and the assigned judge must be "participating" in the program. In which case papers are filed by electronic means, and "signed" by use of the User ID and Password provided by the Clerk. The clerk shall electronically communicate the index number to the filing party by the next day.

If either the fax or FBEM system is down for at least an hour after Noon, the Clerk shall notify the UCS system to so post.

Requests for Judicial Intervention (RJIs) for assignment of judge are filed after service of process. Except that any application or motion made before an RJI is filed in a case, must then be accompanied by such RJI. RJIs are submitted in *duplicate*, with proof of service on the other parties (unless it accompanies an ex-parte motion). A fee for an RJI is required, EXCEPT: for a "poor person" (unless such application be then denied).

RJIs are NOT required for: sale of church property; name change; habeas corpus of institutionalized movant; applications to CLERK for default judgment; assistance with disclosure in an out-of-state action; hospitalization pursuant to Mental Hygiene Law; appeals to County Court (from a court of limited jurisdiction); vactur of judgment due to bankruptcy; motion for emergency surgery order; and, in NYC ONLY, *uncontested* annulment/divorce/separation proceedings.

Also, in NYC and RJI must be accompanied by a receipt from the County Clerk that the index number fee was paid, or a statement to the same effect. The clerk in such case may also require the RJI to be accompanied by a Self Addressed Stamped Envelope.

Motions for Disclosure - or a Bill of Particulars - must be accompanied by an Affirmation that the information is being sought "in good faith" to resolve the action.

If no judge has yet been assigned, the motion with RJI shall be returnable before the COURT in general, within 5 days; and must be served on the other parties. On a motion for disclosure - or for a bill of particulars - if no preliminary conference has been set, such conference to be held within 45 days of the motion return date. No stipulated adjournments more than 3 in number, or for more than 60 days total, may be made regarding such return date without leave of the Court.

Otherwise any party may request a preliminary conference at any time after completion of service; if no Judge has been assigned yet, an RJI must also be filed, and preliminary conference shall be within 45 days of date when RJI filed. The period for disclosure shall be set at such preliminary conference, to be complete within: 12 months from RJI on a standard case; or 15 months for a complex action. [Pursuant to types of actions designated by the Chief Asdministrator as "Differentiated Case Management" procedures, an expedited period of 8 months may also be applied].

ANY motion not decided by a Judge within 60 days from final submission of all papers shall trigger a computer-generated notice, sent out by the Deputy Chief Administrator. A Judge who feels that a motion is unusually complex however, may

apply to the *Administrative Judge* within 20 days of submission; if such designation be confirmed, decision then due within 120 days.

Notice of Video deposition shall specify the name, address, and employer of the operator. The operator MAY be an employee of the attorney. Costs for videotaping is borne by the party who noticed the deposition. The video is given over to the custody of the Clerk. Objections to the final video shall be made within 10 days.

Matrimonial actions shall require that an RJI be filed within 45 days after service; unless both parties stipulate that such is not necessary ("no necessity"), then within 120 days. All papers in such action shall be signed pursuant to Part 130-1.1A ("not frivolous"). A "statement of net worth" from both parties, AND their attorney's retainer agreement, as well as paychecks, W2s, and tax returns must be turned over within 10 days before the preliminary conference. Trial in a non-complex matrimonial proceeding shall be set within 6 months of such conference. The Court may also direct a list of proposed law guardians, as well as of expert witnesses, be furnished within 30 days after preliminary conference. Custody cases shall be tried day-to-day; as well as any other matter if practicable.

In a personal injury or wrongful death action, any physical examination to be done shall be on notice of between 30 and 60 days *after* joinder of issue AND filing Bill of Particulars. Medical reports shall be turned over at least 20 days before such exam.

In any "Differentiated Case Management" (DCM) action, a "compliance" conference shall be set at least 60 days before scheduled completion of discovery. At the time of such conference, the Court shall set the limit by when Note of Issue must be filed. a Pre-Trial conference is held within 180 days of filing the Note of Issue, and fixes trial date no later than 8 weeks.

Otherwise, in all non-DCM cases, Pre-trial conference shall be held within 15 to 45 days before trial. Any Stipulation of Discontinuance must be made within 20 days after such conference; but in any event, *before* the date noticed for court activity.

A case is marked ready for trial upon Note of Issue, together with Certificate of Readiness, which shall be served on all parties, and filed with court within 10 days thereafter. The party so filing shall pay the requisite Calendar Fee (except a poor person). The Clerk shall stamp such Note as either "Fee Paid", OR "Poor Person Order". Note and Certificate NOT required for Court approval of settlement for infant/incompetent/conservatee. The Note shall specify the index #, assigned Judge, name/address/telephone number of each attorney OR pro se party, as well as any insurance carrier appearing on behalf of a party. Application to vacate a Note of Issue must be made within 20 days of filing, else afterwards only for good cause shown [vacatur NOT applicable to Tax Assessment proceedings].

Court calendar types include: Preliminary; Motion; General; Pre-Trial; Reserve (pre-trial conference held, no trial date set); Ready; Military; and Continuous (where

Court not continually in session, last term's calendars used to open new term; cases keep their place in line).

If preference is requested in a personal injury/wrongful death case; such application must be accompanied by: summons; complaint; answer; bill of particulars; medical reports; and a statement that venue is properly laid. Objection to preference request shall be within 20 days of the Note of Issue requesting it; or if it be requested by another party on motion, within 10 days of such notice. Rebuttal papers may be served within 5 days.

If another attorney will conduct the trial on behalf of counsel of record, written notice must be provided to Court and all other parties within 15 days after pre-trial conference; or, if no such conference held, at least 10 days before trial. Both counsel of record AND substituting attorney must sign.

Voir dire of prospective juror may be either by the "White" method: 1) question entire panel; 2) seat 6, and question each; 3) immediately replace any objected to. Or by the "Struck" method: question a 25 member panel together, and then whittle down. The "Strike & Replace" method may only be utilized in districts where approved by Chief Administrator upon request of Administrative Judge.

For personal injury cases, a *bi-furcate* trial is encouraged, trying liability first, and then damages afterwards as necessary.

A Plaintiff may object to a Referee's report within 15 days of filing; if plaintiff chooses not to, defendant may do so within 30 days.

If transcript of proceedings is filed with the County Clerk, such clerk shall issue a "stub" with the Clerk's name and address, and a description of the docket. Such stub shall be 3 & 5/8ths inches x 8 & 1/2.

If the Court directs a case to be settled: proposed order must be completed within 60 days thereafter, and served on all other parties personally at least 5 days before date noticed for settlement, or 10 days if by mail. Counter-proposals shall be personally served at least 2 days before, or 7 days if by mail.

Any Receiver of property must account at least once per year.

Custody of Native American children shall be pursuant to the Indian Child Welfare Act of 1948.

There shall be established a "Litigation Coordinating Panel" to handle actions filed in more than one district.