

**WESTCHESTER COUNTY JUSTICES
AND LOCAL RULES**

Commercial Division - NY Supreme Court

Westchester County

Chambers and Part Information of Justice Scheinkman

Part Information (For Commercial Division Inquiries Only)

Westchester County
Commercial Division
Courtroom 105
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Part Clerk: Maryann Tamberella
Phone: 914-824-5348

Motions: Friday, 9:30 a.m.
Conferences: Friday, 9:30 a.m.

Chambers Information (For Commercial Division Inquiries Only)

Commercial Division, Westchester County
Supreme Court of the State of New York
Room 141
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Law Secretary: Gretchen Walsh

Secretary: Amelia Formicola
Chambers Phone: 914-824-5419
Fax: 212-884-8939

Please obtain permission from chambers before sending a fax.

To reach Administrative Judge Scheinkman on non-commercial or administrative matters:

Phone: 914-824-5100
Fax: 914-995-4946
Fax: 914-995-4111



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

P R E S E N T :

Hon. Alan D. Scheinkman
Justice Supreme Court

-----X

Plaintiff, : **PRELIMINARY CONFERENCE
ORDER –COMMERCIAL CASE**

-against- : Index No.

Defendant. :

-----X

SCHEINKMAN, J.:

Counsel having appeared for a preliminary conference on _____, 20 :

Plaintiff:

Name

Firm

Address

Telephone Number

Fax

Defendant:

Name

Firm

Address

Telephone Number

Fax

and the Court having conducted a preliminary conference in the above-entitled action, it is hereby ORDERED as follows, pursuant to Rule 8 of the Rules of Practice for the Commercial Division:

1. Any Demand for a Bill of Particulars shall be served on or before _____ and any Bill of Particulars shall be served on or before _____.
2. Any Demands for Discovery and Inspection shall be served on or before _____ and all Responses to such Demands shall be served on or before _____.
3. Any Interrogatories shall be served on or before _____ and all Answers to Interrogatories shall be served on or before _____.
4. Any deposition on Oral Questions to be taken of Plaintiff shall be held on or before _____ at _____.
5. Any deposition on Oral Questions to be taken of Defendant shall be held on or before _____ at _____.
6. Any deposition on Oral Questions to be taken of any non parties shall be held on or before _____ at _____.
7. Other Disclosure, including Expert Disclosure, shall be:

8. Electronic Discovery shall be:

9. Discovery shall be limited to the following issues:

10. Impleader shall be completed on or before _____.

11. All discovery shall be completed by _____ and any discovery not then completed may be considered waived. The failure to provide a document, or to otherwise provide discovery, may result in preclusion.

12. A Trial Readiness Conference will be held on _____ at _____. On this date a Trial Readiness Order will be issued to the Plaintiff to which Plaintiff shall serve and file a Note of Issue and Certificate of Readiness within (10) days of the date of the Trial Readiness Order.

13. Absent an order of the Court to the contrary, the making of any dispositive motion will NOT stay discovery and will NOT result in, or justify, any change or adjustment in the dates set forth hereinabove.

14. THE DATES SET FORTH ABOVE MAY NOT BE ADJOURNED EXCEPT WITH THE PRIOR APPROVAL OF THE COURT.

15. In the event of a discovery dispute, counsel shall comply with Rule 14 of the Rules of Practice in the Commercial Division. In furtherance thereof, in the event that counsel, after good faith consultation, cannot resolve a discovery dispute, counsel shall promptly contact the Court at 914-824-5419 and arrange for either an in-court or telephonic conference. No motion relating to discovery shall be made without the prior permission of the Court. Neither the existence of any discovery dispute nor the making of any discovery motion shall result in, or justify, any change or adjustment in the dates set forth above, unless otherwise permitted by the Court.

16. All motions (including any discovery motions permitted by the Court) shall be governed by Rules 16 through 24 of the Rules of Practice in the Commercial Division. No sur-reply (which includes reply in further support of a cross-motion) or post-submission papers will be considered by the Court, except as authorized by the Court or by Rule 18. All motions shall be made returnable on Fridays. No motion shall, absent the permission of the Court, be made returnable on any other day.

17. Counsel shall not copy the Court on correspondence between them.

18. No document, including correspondence, shall be sent to the Court without prior authorization from Chambers to do so.

19. Absent the express permission of the Court, copies of all papers filed with the Court shall be transmitted to all opposing counsel in such fashion as to be received by counsel prior to, or contemporaneously with, receipt by the Court.
20. As set forth in Commercial Division Rule 11-a (a) & (b), the parties are advised that the interrogatories in this action shall be limited both in terms of the topics to be covered and the number of interrogatories permitted (*i.e.*, 25 including subparts). Furthermore, pursuant to Commercial Division Rule 11-a(d), the Court hereby orders that there shall be no additional interrogatories permitted concerning the claims and contentions of the parties.

Dated: White Plains, New York

ALAN D. SCHEINKMAN
Supreme Court Justice

Commercial Division - NY Supreme Court

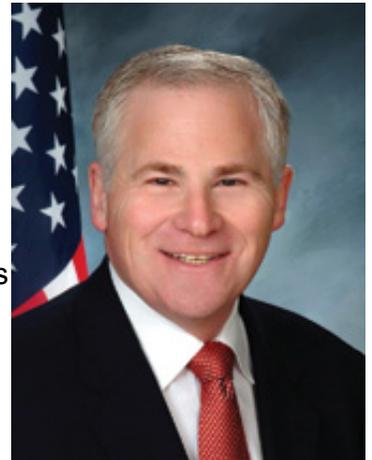
Westchester County

Biography of Justice Alan D. Scheinkman

JUSTICE ALAN D. SCHEINKMAN was elected a Justice of the Supreme Court, Ninth Judicial District in November, 2006.

Justice Scheinkman serves as the Administrative Judge for the Ninth Judicial District. He is a member of the Committee on Pattern Jury Instructions - Civil of the Supreme Court Justices Association. He is also a member of the Chief Judge's Commission on Intergovernmental Relations. He served as an Associate Justice of the Appellate Term for the Ninth and Tenth Judicial Districts from 2007-2009.

Justice Scheinkman was born May 1, 1950 in Newark, New Jersey and was raised in New Rochelle, New York, where he graduated in 1968 from New Rochelle High School. He attended college at George Washington University in Washington, D.C., graduating in 1972. During college, he worked as a staff assistant to Representative Richard L. Ottinger and as a desk assistant at NBC News. Justice Scheinkman studied law at St. John's University School of Law, Jamaica, New York, graduating in 1975, after serving as a Notes and Comments Editor of the Law Review and as research assistant to Professor David D. Siegel, a leading authority on New York civil practice.



Justice Scheinkman began his legal career as law clerk to Hon. Matthew J. Jasen, Senior Associate Judge of the New York Court of Appeals, our State's highest Court. After his clerkship, he practiced law with major New York law firms until 1982, when he joined the full-time faculty at St. John's Law School, teaching New York Practice, Family Law, Torts, and Professional Responsibility, among other subjects. In 1990, he returned to the full-time practice law, establishing his own firm in White Plains, New York. In January 1998, he was appointed and confirmed as Westchester County Attorney, serving as the attorney and legal advisor to the County Executive, Board of Legislators, and each department and officer of county government. He served as a Vice President of the County Attorneys Association of the State of New York. In 2001, he joined Epstein, Becker & Green, P.C. in New York County and in 2003, became the partner in charge of litigation for DelBello, Donnellan, Weingarten, Tartaglia, Wise & Wiederkehr, LLP.

In 1982, he was selected by West Publishing Company to write Practice Commentaries on New York's Domestic Relations Law, materials which have been cited in hundreds of judicial decisions. For approximately 15 years, he was Reporter to the State Supreme Court Justices Committee on Pattern Jury Instructions – Civil, which is responsible for formulating standard jury instructions in civil cases and giving judges guidance on civil trial practice. He was one of the first non-judges to be selected to lecture at the Annual Judicial Seminars for full-time New York judges and continued his participation each year for 15 years. He has also lectured at programs for newly-elected and appointed judges, for Appellate Term justices, and for law assistants to judges. He is the author of a two-volume treatise on Domestic Relations Law and the directing editor of a 12 volumes of text and forms for McKinney's. He served as Executive

Director of the New York State Bar Association Task Force on Administrative Adjudication and is a member of Association's Committee on Appellate Courts. He is a coauthor, with Professor David D. Siegel, of both the Second Edition of the New York State Bar Association's Practitioner's Handbook on Practice in the Appellate Divisions and the Third Edition of the Association's Handbook on Practice in the New York Court of Appeals. He continues to teach as an Adjunct Professor of Law at St. John's University School of Law and also taught as an Adjunct Professor at Pace University School of Law and at Rutgers University School of Law, Newark.

In addition to being admitted to practice in New York State, he is also admitted to practice before the United States Supreme Court, the United States Courts of Appeal for the Second and District of Columbia Circuits, and the United States District Courts for the Southern, Eastern and Northern Districts of New York.

Decisions of interest include:

Chiera v. Liberty Ins. Underwriters, Inc., 2008 WL 4140581
Matter of Henry v. Trotto, 2008 WL 3539516, affirmed 54 A.D.3d 424
Howard v. Greenbriar Equity Group, LLC, 2008 WL 3874712
Paraco Gas of New York, Inc. v. Colonial Coal Yard, Inc., 20 Misc.3d 1112(A)
Serge Dore! Selections Ltd. V. Universal Wines and Spirits, 20 Misc.3d 1121(A)
A&G Research, Inc. V. GC Metrics, Inc., 19 Misc.3d 1136(A)
Lloyds of London v. Bellettieri, Fonte & Laudonio, 19 Misc.3d 1136(A)
Tal v. Superior Vending LLC, 20 Misc.3d 1103(A)
Valisa Mfg., LLC v The 54 Group, Ltd., 19 Misc.3d 1136(A)
Technical Support Services, Inc. v. International Business Machines Corp., 18 Misc.3d 1106(A)
Stern v. H. DiMarzo, Inc., 19 Misc.3d 1144(A)



Web page updated: January 18, 2013

Commercial Division - NY Supreme Court

Westchester County

Chambers and Part Information of Justice Jamieson

Part Information

Westchester County
Commercial Division
Courtroom 103
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Part Clerk: Lois Kouroumousis
Phone: 914.824.5345

Motions: Friday, No appearances
Conferences: As scheduled

Chambers Information

Commercial Division, Westchester County
Supreme Court of the State of New York
Room 1-126
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Principal Court Attorney: Judith M. Shampanier
Assistant Court Attorney: Joseph S. Hadala

Chambers Phone: 914.824.5415
Fax: 914.824.5885



Web page updated: September 10, 2014

JUSTICE LINDA S. JAMIESON

COMMERCIAL DIVISION RULES

**Supreme Court of the State of New York
Westchester County Courthouse
111 Dr. Martin Luther King, Jr. Boulevard
White Plains, New York 10601
Courtroom 103 - 1st Floor
Tel: (914) 824-5415
Fax: (914) 824-5885**

Staff

Judith M. Shampanier, Principal Court Attorney (914) 824-5416

Joseph S. Hadala, Assistant Court Attorney and Secretary (914) 824-5415

Lois Kouroumouis, Part Clerk (914) 824-5345

Counsel are expected to be familiar with the Commercial Division Rules and comply therewith. The following information is offered as a guide to the practices followed by this Court. In the event the Part Rules are silent, the Rules set forth in 22 NYCRR § 202.70 control.

Scheduling:

All questions about scheduling appearances or adjournments should be addressed to the Part Clerk, Lois Kouroumouis, at (914) 824-5345. Do not contact Chambers regarding such issues. Requests for adjournment of matters should be made by not later than 2:00 p.m. on the day before. Requests made after that will likely not be granted. All requests for adjournments must be made with the request of all opposing counsel and, if approved by the Court, confirmed by a signed Stipulation of all counsel.

If consent cannot be obtained, then the requesting counsel must arrange for a conference call with the Court and, if one cannot be timely arranged, then the application must be made at the call of the calendar.

E-Filing Rules and Protocol:

All parties should familiarize themselves with the statewide E-Filing Rules (available at www.nycourts.gov/efile) and the Westchester County E-Filing Protocol (available at <http://www.nycourts.gov/courts/9jd/efile/WestchesterCountyJointProtocols.pdf>) and 202.70 of Uniform Civil Rules of the Supreme and County Courts as amended on 7/1/10.

General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Filing of Papers:

Mandatory e-filing of all Commercial Division actions through the New York State Courts E-Filing system (NYSCEF) began on February 1, 2011. Submissions to the Court including motion papers, proposed orders, proposed judgments, and letters must be electronically filed. Pre-trial submissions are not to be filed electronically, and shall be delivered to the Court at the Pre-Trial Conference or as the Court may otherwise direct.

Working Copies:

E-filing rules provide that a court may require the submission of “working copies” of any electronically filed documents intended for judicial review. A working copy is defined as “a hard copy that is an exact copy of a document that is electronically filed.” **The Commercial Division, Westchester County, requires that working (courtesy) copies of all papers filed electronically be mailed to Chambers.** Pursuant to Uniform Rule 202.5-b(d)(4), the working copy shall bear a copy of the confirmation notice received from the NYSCEF site upon the electronic filing of the document, as a page firmly fastened to the back of the document.

Hard copies not bearing such a page shall be discarded, unread. All working copies of e-filed documents intended for judicial review must include exhibit tabs and litigation backs.

Working copies of all documents, except stipulations to be so-ordered, are to be mailed or hand-delivered so as to be received by Chambers by the return date or notice of settlement date.

WORKING COPIES OF STIPULATIONS TO BE SO-ORDERED (INCLUDING REQUESTS FOR ADJOURNMENT) MUST BE RECEIVED BY CHAMBERS 48 HOURS BEFORE THE EXISTING SCHEDULED DATE. IF THIS CAN NOT BE ACHIEVED, COUNSEL ARE TO CALL OUR PART CLERK.

Hard Copy Submissions:

This Part will reject any hard copy submissions in e-filed cases unless those submissions bear the Cover Sheet for Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

Communications With the Court:

(a) *Written correspondence:* No written correspondence may be sent to the Court without copying all parties or their counsel.

(b) *Telephone calls:*

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.

2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with

the Court or with the Principal Court Attorney.

3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.

Motions:

No motion shall be made, except as allowed by Rule 24 of the Commercial Division Rules, without a prior conference with the Court, which conference may be obtained either by conference call or, upon obtaining permission from chambers, the submission of a brief letter application, not exceeding 1 page in length. At the conference, the Court will set a schedule for making the motion, opposing it, and, if applicable, for reply. Motions are to be returnable on Fridays. Motions made returnable at any other time, absent prior permission of the Court, will be adjourned by the Part Clerk to the next available Friday.

Adjournments are governed by Rule 16(c) of the Commercial Division Rules.

Motions are submitted without oral argument, unless otherwise directed by the Court. Sur-reply papers, including reply papers in support of a cross-motion, are not permitted, absent prior permission of the Court. Any unauthorized papers will not be read and will be discarded.

All papers must comply with the applicable provisions of the CPLR and with Rules 16 and 18 of the Commercial Division Rules. In addition, the font size of text and footnotes must be no smaller than 11 point. Papers which do not comply may be rejected.

In lieu of filing Rule 19-a statements with summary judgment motions, the parties shall confer prior to moving for summary judgment, and submit with the motion(s) one joint statement of material facts that the parties agree are not in dispute.

All exhibits shall be separately tabbed. In the event that multiple affidavits or affirmations are submitted in support of a motion under the same legal back, each such exhibit shall be accompanied by a clearly discernible side or bottom tab containing the last name of the affiant.

No motion papers will be sealed without a prior, or contemporaneous, application for sealing made pursuant to Part 216 of the Rules of the Chief Administrative Judge.

The Court generally does not stay disclosure pending determination of motions to dismiss or motions for summary judgment (made prior to completion of discovery).

Discovery:

A. Motions

With respect to cases already assigned to this Court at the time that a discovery dispute arises, no motion with respect to the dispute shall be made without a prior conference with the Court, which may be obtained by submission of a letter application, not exceeding one page in length.

With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention which leads to the assignment to this Court, no opposition papers shall be served until there has been a prior conference with the Court, which may be obtained by letter application, not exceeding one page in length. The application for a discovery conference may be made by the movant or by the opposing counsel; however, the application must be made within eight days of service of the motion. Failure to request a discovery conference may result in the denial of the motion.

The Court endeavors to resolve discovery disputes promptly, usually by conference, which may be held telephonically or in person. In the event that the dispute is not resolved, the Court will set an expedited briefing schedule. Counsel shall, prior to requesting a conference, meet in person to discuss the issues and endeavor to resolve or limit them, prior to seeking judicial intervention.

B. Other Discovery Issues

The number of interrogatories, including subparts, shall be limited to 25, unless another limit is specified in the Preliminary Conference Order or as ordered by the Court.

Preliminary Conferences:

Upon receipt of a letter from the Court scheduling a preliminary conference, counsel shall meet in person and shall jointly prepare a brief statement describing the case and the contentions of the parties. In addition, counsel shall jointly complete a proposed Preliminary Conference Order, on the form supplied by the Court (also available on the Court's website).

These submissions shall be furnished to the Court not later than 12 p.m. on the day prior to the conference. In the event that the Court does not receive the submissions, the Court will take such action as may be appropriate under the circumstances, including adjournment of the conference, requiring counsel to complete the forms at the conference, or other steps.

Transcripts:

Where the Court decides a motion on the Record, the prevailing party shall order the transcript, and promptly e-file the transcript. A hard copy shall be delivered to Chambers to be so-Ordered.

Mediation:

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

Trials:

At the pre-trial conference, the Court will schedule the return date for motions in limine, if any.

At least 20 days prior to the start of the trial, the parties are to submit:

(A) pre-trial memoranda

(B) proposed facts to be proven at trial

(C) a list of witnesses each party expects to call at trial, with each witness listed as an expert or fact witness. If the witness is an expert, state whether the parties agree or dispute that witness' status as an expert.

(D) a list of exhibits that each party plans to use at trial. The list must state whether the exhibit is in dispute or not. Exhibits that are not in dispute must be pre-marked; parties are to contact and work with the court reporter to mark exhibits prior to the trial. Parties should have copies of the exhibits for all parties, the witness and the Court. The Court's exhibits should be tabbed, in a binder.

(E) if it's a jury trial, the parties must submit proposed jury charges and a proposed verdict sheet. Any charges that diverge in any fashion from the Pattern Jury Instructions must be accompanied by a brief memo, supported by case law.

Commercial Division - NY Supreme Court

Westchester County

Biography of Justice Linda S. Jamieson

Justice Linda S. Jamieson currently sits in a Civil Trial Part and the Commercial Division of the Supreme Court. She was elected as a Justice of the Supreme Court in November 2002. Following her election, she was assigned to an Individual Assignment Part, where she presided over a variety of cases, including but not limited to, torts, real estate, commercial, employment discrimination, medical malpractice and contract disputes. In June 2006, Justice Jamieson was assigned to a dedicated Matrimonial Part where she sat until 2010. Prior to her election to Supreme Court, Justice Jamieson was appointed by the Governor as a Family Court Judge in Westchester County. She was subsequently elected to that position, serving a total of six years there.



Justice Jamieson earned her Bachelor's Degree from Hofstra University and her Juris Doctorate from the Pace University School of Law. She is admitted to practice law in the States of New York, Connecticut, New Jersey and Florida, as well as in the United States Supreme Court and the United States District Courts for the Southern and Eastern Districts of New York. Prior to taking the bench, Justice Jamieson was in private practice for 20 years as a trial attorney.

Justice Jamieson is an active member of, and lecturer for, many bar associations, including the New York State Women Judges Association, of which she is currently a board member; the National Association of Women Judges; the Westchester County Bar Association; the White Plains Bar Association, of which she was President; and the Women's Bar Association of the State of New York, of which she is a board member. She is also a former board member of the Association of Judges of the Family Court of the State of New York. She presently represents the 9th Judicial District on the Office of Court Administration's Social Media Committee.



Web page updated: September 10, 2014

**PRACTICE GUIDE TO THE COMMERCIAL DIVISION, WESTCHESTER COUNTY
CASES PENDING BEFORE HON. ALAN D. SCHEINKMAN**

Counsel are expected to be familiar with the Commercial Division Rules and comply therewith. The following information is offered as a guide to the practices followed by this Court.

Scheduling:

All questions about scheduling appearances or adjournments should be addressed to the Part Clerk, Maryann Tamberella, at (914) 824-5348. Do not contact Chambers regarding such issues. Requests for adjournment of matters appearing on the weekly Commercial Calendar should be made by not later than 3:00 p.m. on the day before. Requests made after that will likely not be granted. All requests for adjournments must be made with the request of all opposing counsel and, if approved by the Court, confirmed by a signed Stipulation of all counsel. If consent cannot be obtained, then the requesting counsel must either arrange for a conference call with the Court and, if one cannot be timely arranged, then the application must be made at the call of the calendar.

E-Filing Rules and Protocol:

All parties should familiarize themselves with the statewide E-Filing Rules (available at www.nycourts.gov/efile) and the Westchester County E-Filing Protocol (available at <http://www.nycourts.gov/courts/9jd/efile/WestchesterCountyJointProtocols.pdf>) and 202.70 of Uniform Civil Rules of the Supreme and County Courts as amended on 7/1/10. General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Filing of Papers:

Mandatory e-filing of all Commercial Division actions through the New York State Courts E-Filing system (NYSCEF) is scheduled to begin on February 1, 2011. Submissions to the Court including motion papers, proposed orders, proposed judgments, and letters (after prior permission to send such letters is provided), must be electronically filed. Pre-trial submissions are not to be filed electronically, and shall be delivered to the Court at the Pre-Trial Conference or as the Court may otherwise direct.

Working Copies:

E-filing rules provide that a court may require the submission of “working copies” of any electronically filed documents intended for judicial review. A working copy is defined as “a hard copy that is an exact copy of a document that is electronically filed.”

The Commercial Division, Westchester County, requires that working (courtesy) copies of all papers filed electronically be mailed to Chambers. Pursuant to Uniform Rule 202.5-b(d)(4), the working copy shall bear as a cover page firmly fastened thereto a copy of the confirmation notice received from the NYSCEF site upon the electronic filing of the document. Hard copies not bearing such cover page shall be discarded, unread. All working copies of e-filed documents intended for judicial review must include exhibit tabs and backs.

For matters on submission only, working copies of all documents, except stipulations to be so-ordered, are to be mailed or hand delivered so as to be received by Chambers by the return date or notice of settlement date. **If an appearance is scheduled on the return date, working copies must be received in Chambers by 3:00 pm the day before.**

WORKING COPIES OF STIPULATIONS TO BE SO-ORDERED (INCLUDING REQUESTS FOR ADJOURNMENT) MUST BE RECEIVED BY CHAMBERS 48 HOURS BEFORE THE EXISTING SCHEDULED DATE. IF THIS CAN NOT BE ACHIEVED, COUNSEL ARE TO CALL OUR PART CLERK AT (914) 824-5348.

Hard Copy Submissions:

Part will reject any hard copy submissions in e-filed cases unless those submissions bear the Cover Sheet for Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

Communications With the Court:

(a) *Written correspondence:* No written correspondence may be sent to the Court without prior permission. Written correspondence sent by letter, fax or any other means, without permission will not be read and will be discarded.

(b) *Telephone calls:*

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.
2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with the Court or with the Law Secretary.
3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.

Motions:

No motion shall be made, except as allowed by Rule 24 of the Commercial Division Rules, without a prior conference with the Court, which conference may be obtained either by conference call or, upon obtaining permission from chambers, the submittal of a brief letter application, not exceeding 1 page in length. At the conference, the Court will set a schedule for making the motion, opposing it, and, if applicable, for reply.

Motions are to be returnable on Fridays at 9:30 a.m. Motions made returnable at any other time, absent prior permission of the Court, will be adjourned by the Part Clerk to the next available Friday.

Adjournments are governed by Rule 16(c) of the Commercial Division Rules.

Motions are submitted without oral argument, unless otherwise directed by the Court.

Reply papers are not permitted, unless: (a) the right of reply is obtained by service of a notice of motion in accordance with CPLR 2214[b]; or (b) expressly permitted by the Court. Counsel may submit supplemental citations as allowed by Rule 18 of the Commercial Division Rules. Sur-reply papers, including reply papers in support of a cross-motion, are not permitted, absent prior permission of the Court. Any unauthorized papers will not be read and will be discarded.

All papers must comply with the applicable provisions of the CPLR and with Rules 16 and 18 of the Commercial Division Rules. In addition, the font size of text and footnotes must be no smaller than 12 point. Papers which do not comply may be rejected.

All motions for summary judgment shall be accompanied by a Statement of Undisputed Facts Pursuant to Rule 19-a of the Commercial Division Rules. A motion for summary judgment which lacks such a statement may be rejected. All opposing papers must include a response to the Statement of Undisputed Facts.

All exhibits shall be separately tabbed. In the event that multiple affidavits or affirmations are submitted in support of a motion under the same legal back, each such exhibit shall be accompanied by a clearly discernible side or bottom tab containing the last name of the affiant.

No motion papers will be sealed without a prior, or contemporaneous, application for sealing made pursuant to Part 216 of the Rules of the Chief Administrative Judge.

The Court generally does not stay disclosure pending determination of motions to dismiss or motions for summary judgment (made prior to completion of discovery).

Discovery Disputes:

With respect to cases already assigned to this Court at the time that a discovery dispute arises, no motion with respect to the dispute shall be made without a prior conference with the Court, which may be obtained by submission of a letter application, not exceeding one (1) page in length. Counsel must obtain permission from Chambers prior to the submission of such letter application.

With respect to cases in which a discovery motion accompanies the Request for Judicial Intervention which leads to the assignment to this Court, no opposition papers shall be served until there has been a prior conference with the Court, which may be obtained by letter application, not exceeding one (1) page in length. The application for a discovery conference may be made by the movant or by the opposing counsel; however, the application must be made within eight (8) days of service of the motion. Counsel must obtain permission from Chambers prior the submission of a letter application. Failure to request a discovery conference may result in the denial of the motion.

The Court endeavors to resolve discovery disputes promptly, usually by conference, which may be held telephonically or in person. In the event that the dispute is not resolved, the Court will set an expedited briefing schedule. Counsel shall, prior to requesting a conference, meet in person to discuss the issues and endeavor to resolve or limit them, prior to seeking judicial intervention.

Preliminary Conferences:

Upon receipt of a letter from the Court scheduling a preliminary conference, counsel shall meet in person and shall **jointly** prepare a brief statement describing the case and the contentions of the parties. In addition, counsel shall **jointly** complete a proposed Preliminary Conference Order, on the form supplied by the Court (also available on the Court's website). Counsel are advised that, absent very unusual complexity, the Court will require that discovery be completed within six months of the assignment of the case to the Court. These submissions shall be furnished to the Court not later than 12 p.m. on the day prior to the conference. In the event that the Court does not receive the submissions, the Court will take such action as may be appropriate under the circumstances, including adjournment of the conference, requiring counsel to complete the forms at the conference, or other steps.

9th JUDICIAL DISTRICT

E-Filing Information

[Announcements](#) | [Forms](#) | [New York State Courts E-Filing System \(NYSCEF\)](#) | [Office of the County Clerk](#) | [Protocol & Rules](#) | [Requirements](#) | [Timeline](#) | [Training](#) | [Archives](#)

E-filing is now permitted in Westchester and Rockland Counties for approved case types.

Announcements

[Consumer Credit Court Rules](#) **NEW!**

Voluntary E-filing available in Dutchess County for all *approved Civil Case types

[E-Filing is now available for Matrimonial Cases in Westchester County on a voluntary basis](#)

[Westchester County: Mandatory E-filing for ALL *approved civil cases including Tax Certiorari and Foreclosure](#)

(*See protocols for approved case types)



Forms for E-Filing

[Notice of Commencement of Mandatory E-filed case](#)

[Cover Sheet for Hard Copy Submission - E-filed Case](#) (rev 6/22/10)

[Stipulation and Consent to E-filing \(EF-10\)](#)

[Notice of Opt-Out](#)



Office of the County Clerk

Dutchess:

[Office of Dutchess County Clerk](#)

Rockland:

[Office of Rockland County Clerk](#)

Westchester:

[Westchester Legal Division](#)

[Westchester Records On Line](#)



Protocol & Rules

[A Guide to Working Copies](#) (revised 9/2014)

[Rules of the Chief Judge and Legislation](#)

Dutchess:

[Protocols and Rules for Dutchess County E-Filing](#)

Rockland:

[Administrative Order Permitting E-filing in Rockland County](#)

[Protocols and Rules for Rockland County](#)

Westchester:

[Joint Protocols for NYSCEF Cases Filed in Westchester County](#)

(Rev. 4/1/2013)



Requirements

- computer with internet capabilities
- printer
- scanner
- software such as Adobe Acrobat in order to view PDFs
- user ID and password to access E-File System
- Optional: software that allows you to convert documents into PDFs



Timeline for Implementation

Dutchess Timeline

- Voluntary E-filing as of February 10, 2014, for all *approved Civil Case types (*Excludes Matrimonial, Election Law, Mental Hygiene, Article 78 and Small Claims Assessment Review)

Rockland Timeline

- Voluntary E-filing as of April 4, 2011, for approved civil case types commenced in Rockland Supreme Court.
- Mandatory E-Filing on June 1st, 2011 for approved civil case types commenced in Rockland Supreme Court.

Westchester Timeline

- January 2012- Mandatory for all *approved Civil Case Types not excluded by statute.
- June 1, 2011 - Mandatory to other Civil case types, including Commercial Claims that do not meet the criteria for inclusion in the Commercial Division
- March 1, 2011 - Mandatory to other case types, including commencement of Tort Cases

- January 19, 2011 - Voluntary basis with respect to commencement of Tort and Commercial Cases and Tax Certiorari Proceedings
- February 1, 2011 - Mandatory with respect to the commencement of Tort Cases
- June 21, 2010 - Voluntary basis in Commercial Division

Approved case types are all Civil matters with the exclusion of matrimonial actions, Election Law proceedings, Article 78 proceedings and proceedings brought pursuant to the Mental Hygiene Law.



Training

Demonstration of the New [E-Filing \(NYSCEF\)](#) application:

[Video](#) | [Transcript](#)

[User Manual for Supreme Court and Court of Claims](#)



Archives



Web page updated: October 3, 2014

**SUPREME COURT OF THE STATE OF NEW YORK
COMMERCIAL DIVISION - COUNTY OF WESTCHESTER**

HON. ALAN D. SCHEINKMAN

RULES OF THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM

PREAMBLE

It is the policy of this Court to encourage the resolution of disputes and the early settlement of pending litigation through voluntary, consensual settlement procedures. The following Rules shall govern cases sent to [Alternative Dispute Resolution](#) (“ADR”) by the Justice Presiding in the Commercial Division or referred to ADR upon consent of the parties. As indicated hereinafter, parties whose cases are the subject of an Order of Reference are free to use the services of a private ADR provider of their choosing in lieu of taking part in this Court’s ADR Program. Further, after a case has been submitted to this Court’s program, parties can terminate the process and proceed to ADR elsewhere.

Rule 1. Program:

The Commercial Division of the Supreme Court of the State of New York, County of Westchester, operates an Alternative Dispute Resolution Program (“the Program”). Unless otherwise agreed by the parties, cases referred to the Program shall be mediated.

Rule 2. Roster of Mediators:

The Administrative Judge shall establish and maintain a Roster of Mediators (“the Roster”).

(i) In order to be eligible to serve as a Mediator and be listed on the Roster, a person shall possess the following qualifications and such others as may hereafter be promulgated. A mediator must (a) have a minimum of ten years of experience in the practice of commercial law or be an accountant or business professional with a comparable level of experience; (b) have completed at least the amount and type of training required by Part 146¹ of the Rules of the Chief Administrator; (c) have recent experience mediating commercial cases as mandated by Part 146; and (d) Comply with the Commercial Division’s [Standards of Conduct for Mediators](#)).

¹Part 146 requires prospective mediators to have successfully completed a minimum of forty (40) hours of training in an OCA-sponsored or OCA-recognized training program, which includes 24 hours of training in basic mediation skills and techniques and 16 hours of training in the specific mediation techniques pertaining to commercial litigation (see [Part 146](#) of the Rules of the Chief Administrator).

(ii) Continuing presence on the Roster is subject to review by the Administrative Judge. Mediators may be removed from the Roster at the discretion of the Administrative Judge in consultation with the Unified Court System Office of ADR Programs.

(iii) The Roster will be available through the Program Administrator, located in Westchester County Supreme Court, or on the [Commercial Division website](#).

Rule 3. Determination of Suitability; Order of Reference; Compensation:

At the outset of each case, the Commercial Division Justice shall determine the suitability of the action for mediation. Cases shall be referred to mediation as soon after they have been commenced as is practicable, consistent with the Uniform Rules for NYS Trial Courts, Rules of Practice for the Commercial Division, [Section 202.70\(g\)\(3\)](#). A case not deemed appropriate for referral at its outset may be referred later to the Program in the discretion of the Commercial Division Justice.

If the Commercial Division Justice orders the parties to mediation or if the parties consent to a referral to the Program, the Commercial Division Justice shall issue an Order of Reference requiring the parties to attend an initial mediation session. The Mediator shall not charge the parties for the first four hours of the initial mediation session. Thereafter, the parties may choose to terminate the mediation or to schedule additional sessions with the Mediator. If the parties choose to continue in mediation beyond the first four hours of the initial session, the parties shall pay the Mediator \$300.00 per hour unless the parties and the Mediator agree otherwise in writing.

Rule 4. Selection of Mediator; Private ADR Providers; Conflict of Interest:

(i) An action referred to the Program shall be assigned to a Mediator chosen from the Roster. The parties shall be given an opportunity to select the Mediator. If the parties do not submit in writing agreed-upon names of mediators within five business days from notification of the issuance of the Order of Reference, which deadline is not subject to adjournment, or if administrative necessity so requires, the Program Administrator shall select the Mediator.

(ii) Parties may designate as the Mediator a person who is not a member of the Roster or may proceed to ADR using the good offices of a private ADR provider; but in either instance the parties must complete the ADR process within the deadlines set forth in these Rules and comply with Rule 5.

(iii) Every member of the Roster, and any other person who serves as a Mediator pursuant to subdivision (ii) of this Rule, shall comply with the [Standards of Conduct for Mediators](#), promulgated by the Commercial Division of the State of New York.

(iv) To avoid conflicts of interest, any person tentatively designated to serve as a Mediator shall, as a condition to confirmation in that role, conduct a review of his or her prior activities and those of any firm of which he or she is a member or employee. The Mediator shall make disclosures to the parties who may object to the Mediator's ability to serve or the Mediator shall disqualify himself or herself if he or she would not be able to participate as Mediator fairly, objectively, impartially, and in accordance with the highest professional standards. The Mediator shall also avoid an appearance of a conflict of interest. If any potentially disqualifying facts are discovered, the Mediator shall either decline the appointment or shall fully inform the parties and the Commercial Division's Program Administrator of all relevant details. Unless all parties after full disclosure consent to the service of that Mediator, the Mediator shall decline the appointment and another Mediator shall be selected promptly by the Program Administrator. Any such conflicts review shall include a check with regard to all parents, subsidiaries, or affiliates of corporate parties.

Rule 5. Confidentiality:

(i) The mediation shall be confidential. All documents prepared by parties or their counsel, and communications made by the parties or their counsel, for, during, or in connection with mediation, and any notes or other writings prepared by the Mediator in connection with the proceeding shall be kept in confidence by the Mediator and the parties. They shall not be summarized, described, reported or submitted to the court by the Mediator or the parties. No party to the mediation shall, during the action referred to mediation or in any other legal proceeding, seek to compel production of documents, notes or other writings prepared for or generated in connection with the mediation, or seek to compel the testimony of any other party or the Mediator concerning the substance of the mediation process. Any settlement, in whole or in part, reached during the mediation shall be effective only upon execution of a written stipulation signed by all parties affected or their duly authorized agents. Such an agreement shall be kept confidential unless the parties agree otherwise, except that any party thereto may thereafter commence an action for breach of the agreement. Documents and information otherwise discoverable under the Civil Practice Law and Rules shall not be shielded from disclosure merely because they are submitted or referred to in the mediation.

(ii) No party to an action referred to the Program shall subpoena or otherwise seek to compel the Mediator to testify in any legal proceeding concerning the content of the mediation. If a party to an action that had or has been referred to the Program attempts to compel such testimony, that party shall hold the Mediator harmless against any resulting expenses, including reasonable legal fees incurred by the Mediator or reasonable sums lost by the Mediator in representing himself or herself in connection therewith. However, notwithstanding the foregoing and the provisions of Rule 5 (i), a party or the Program Administrator may report to an appropriate disciplinary body any unprofessional conduct engaged in by the Mediator, and the Mediator may do the same with respect to any such conduct engaged in by counsel to a party.

(iii) Notwithstanding the foregoing, to the extent necessary, (a) the parties may include

confidential information in a written settlement agreement; (b) the Mediator and the parties may communicate with the Program Administrator about administrative details of the proceeding; and (c) the Mediator may make general reference to the fact of the services rendered by him or her in any action required to collect an unpaid, authorized fee for services performed under these Rules.

Rule 6. Immunity of the Mediator:

Any person designated to serve as Mediator pursuant to these Rules shall be immune from suit based upon any actions engaged in or omissions made while serving in that capacity to the extent permitted by law.

Rule 7. Procedure:

(i) Unless otherwise agreed by the parties, cases referred to the Program shall be mediated.

(ii) Unless otherwise directed by the Commercial Division Justice, all proceedings in this court other than the mediation, including all disclosure proceedings and motion practice, shall not be stayed from the date of the Order of Reference.

(iii) The first mediation session shall be conducted within 30 days from the Confirmation Date. Immediately after confirmation, all parties shall communicate with one another and the Mediator and take all steps necessary to comply with said deadline. The first four hours of the first mediation session shall be offered free of charge.

(iv) Unless otherwise directed by the Mediator, at least ten days before the first mediation session, each party shall deliver to the Mediator a copy of its pleadings. The Mediator may request from each party a memorandum of not more than ten pages (except as otherwise agreed) setting forth each party's opinions as to the facts and the issues that are not in dispute, contentions as to liability and damages, and suggestions as to how the matter might be resolved. Except as otherwise agreed, this memorandum shall not be served on the adversary or filed in court, shall be read only by the Mediator, and shall be destroyed by the Mediator immediately upon completion of the proceeding.

(v) Attendance is required at the first mediation session. The location of each mediation session shall be determined by the Mediator.

(vi) Unless exempted by the Mediator for good cause, every party must appear at each mediation session in person or, in the case of a corporation, partnership or other business entity, by an official (or more than one if necessary) who is both fully familiar with all pertinent facts and empowered on his or her own to settle the matter. In addition, counsel for each represented party shall be present at each session. Any attorney who participates in the mediation shall be fully familiar with the action.

(vii) If the mediation results in a settlement of the case, the Mediator shall immediately advise the Program Administrator, and the parties shall forthwith submit a stipulation of discontinuance to the Commercial Division Justice.

(viii) At the end of the session(s) mandated by subdivision (v) of this Rule, any party or the Mediator may terminate the mediation. In such case the Mediator shall immediately inform the Program Administrator of the termination. If the mediation has been terminated by one party only, the identity of that party shall not be reported.

(ix) Notwithstanding the foregoing, if a party or counsel fails to schedule an appearance for mediation in a timely manner, fails to appear at any scheduled session or otherwise fails to comply with these Rules, the Mediator shall advise the Program Administrator.

(x) Upon termination of the mediation by a party pursuant to subdivision (viii) of this Rule, neither the Mediator nor the parties shall inform the Program Administrator which party brought the mediation to an end. The Program Administrator shall report to the Commercial Division Justice at the conclusion of the mediation whether the mediation produced a resolution of the case in whole or in part. The Program Administrator shall also report to the Commercial Division Justice, on an appropriate form, a copy of which shall be forwarded to the parties, any violation of these Rules as indicated by a Mediator pursuant to subdivision (ix) of this Rule. The Commercial Division Justice may impose sanctions or take such other action as is necessary to ensure compliance with and respect for the court's Order and these Rules.

Rule 8. Compensation of Mediators:

(i) Mediators shall be compensated at the rate of \$300.00 per hour unless the parties and the Mediator agree otherwise in writing, except that Mediators shall not be compensated for the first four (4) hours spent in required mediation sessions conducted pursuant to Rule 7 of these rules or for time spent on the selection and appointment process.

(ii) The Mediator's fees and expenses shall be borne equally by the parties unless the parties agree otherwise in writing.

Rule 9. Completion of Mediation; Report:

The mediation session or sessions shall be concluded within 45 days from the Confirmation Date. The Mediator shall report to the Program Administrator as to success or lack of success no later than seven days thereafter.

Rule 10. Continuation of Mediation after Expiration of the 45-Day Period:

If the matter has not been entirely resolved within the 45-day period as provided in Rule 9, but the parties and the Mediator believe that it would be beneficial if the mediation process were to continue, the process may go forward.

Rule 11. Further Mediation:

After completion of the mediation, upon request of a party or upon its own initiative, the Commercial Division Justice, in his or her discretion, may issue an order directing a second referral to the Program. Any such referral shall be entertained and ordered as early as practicable. Any case so referred shall proceed in accordance with these Rules.

Rule 12. Administration of Program:

The Program shall be supervised and coordinated by the Principal Law Clerk for the Commercial Division Justice, who shall act as the Program Administrator.

Rev. August 2011

THE COMMERCIAL DIVISION
SUPREME COURT-WESTCHESTER COUNTY
WESTCHESTER COUNTY COURTHOUSE
111 DR. MARTIN LUTHER KING, JR. BLVD.
WHITE PLAINS, NEW YORK 10601

Justice Alan D. Scheinkman

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Principal Law Clerk

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