

COURT NOTICES

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and upon the advice and consent of the Administrative Board of the Courts, I hereby amend, effective immediately, section 202.8(h) of the Uniform Civil Rules for the Supreme and County Courts, relating to motions not decided within 60 days, to read as follows:

(h) 60-Day Rule. If 60 days have elapsed after a motion has been finally submitted or oral argument held, whichever was later, and no decision has been issued by the court, counsel for the movant shall send the court a letter alerting it to this fact with copies to all parties to the motion. *The letter shall set forth the name and index number of the case and shall state: "Pursuant to section 202.8(h) of the Uniform Civil Rules for the Supreme and County Courts, please be advised that 60 days have elapsed after submission on (date) of the motion by (party) for (relief requested), and no decision has been issued." The letter shall contain no other substantive language. The letter requires no response and shall be placed in the court or chambers file.*

AMENDMENT OF RULE

Uniform Rules for the Court of Claims

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend, effective immediately, sections 206.10 and 206.23 of the Uniform Rules for the Court of Claims, relating to pre-trial conferences, to read as follows:

§ 206.10 Conferences

(a) In all matters, except appropriation claims and prisoner pro se claims, the court shall order a preliminary conference as soon as practicable, but no later than six months, after the action has been assigned.

(b) The court, in ordering a preliminary conference, shall fix the date and time for the conference and notify the parties. Except where a party appears pro se, an attorney thoroughly familiar with the claim and authorized to act on behalf of the party shall appear at such conference.

(c) The matters to be considered at the preliminary conference shall include:

(1) simplification and limitation of factual and legal issues, where appropriate;

(2) establishment of a timetable for the completion of all disclosure proceedings, provided that all such procedures must be completed within 18 months of the assignment of the claim to the judge, unless otherwise shortened or extended by the court depending upon the circumstances;

(3) settlement of the claim; and

(4) any other matters that the court may deem relevant.

(d) In lieu of a preliminary conference as outlined in this section, and unless the court orders otherwise, the parties may execute a

stipulation, to be so ordered by the court, agreeing to a timetable for the completion of disclosure within 18 months of the assignment of the claim to the judge.

(e) The court may direct the holding of additional conferences *including, but not limited to, pretrial conferences*, as the court may deem helpful or necessary in any matter before the court.

(f) At the conclusion of the conference the court may make a written order including its directions to the parties as well as stipulations of counsel.

(g) If any party fails to appear for a scheduled conference, the court may note the default on the record and enter such order as appears just, including dismissal.

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§ 206.23 Public Construction Contract Claims; Special Rules

(a)(1) All claims involving public construction contracts shall contain separately captioned and numbered causes of action. When utilized in a claim, detailed schedules of items of damage that pertain to or are allied with a particular cause of action shall be made a part of said cause of action.

(2) Where the claimant has accepted final payment, the claim shall have attached to it a copy of the statement required by section 145 of the State Finance Law.

(b)(1) Within 30 days after the service and filing of its verified answer, the defendant may serve and file an itemized demand for a bill of particulars.

(2) Unless claimant, moves to modify or vacate such demand, said claimant must serve a proper bill of particulars within 60 days of the receipt of the defendant's demand and file the original with proof of service in the office of the clerk or may be precluded under CPLR 3042 for failure to furnish a proper bill unless the time to serve said bill shall be extended as hereinafter provided.

(c)(1) The defendant may serve a notice of an examination before trial of the claimant at any time after the service and filing of its answer, but not later than 60 days after the service of a bill of particulars by the claimant.

(2) The claimant may serve a notice of an examination before trial at any time as provided in the CPLR, but not later than 30 days after the service of a notice by the defendant of an examination before trial of the claimant.

(d) All other motions shall be brought in accordance with the Court of Claims Act, the rules of the Court of Claims and the provisions of the CPLR, and shall be returnable in the district wherein the action is triable.

(e) Subject to the written approval of the court, the parties, within the period of time therein specified, may stipulate to waive or modify any of the requirements of subdivisions (b) or (c) of this section.

(f) A party confronted with unusual and special circumstances requiring more time than prescribed by subdivisions (b) or (c) of this section for compliance with any of the provisions of said subdivisions

may move for an extension of time, which the court may grant for such period and under such conditions as the interest of justice require.

[(g) After the filing of a note of issue and certificate of readiness, the Presiding Judge, on his or her own initiative or at the request of either party, may schedule a pretrial conference. Except where a party appears in the action pro se, an attorney thoroughly familiar with the action and authorized to act on behalf of the party shall appear at such conference.

(1) In the discretion of the Presiding Judge, the conference may be conducted under the supervision of his or her executive assistant or by the trial judge's law clerk.

(2) The matters to be considered at the pretrial conference shall include:

(i) the marking of all exhibits which either party intends to use at trial;

(ii) stipulation by the parties as to the authenticity and admissibility of those exhibits upon which agreement can be reached, or, where agreement is not possible, the noting of any evidentiary objections to a particular exhibit;

(iii) presentation of any unusual evidentiary issues which may arise during the trial; and

(iv) exchange of any pretrial memoranda which the parties may wish to submit to the Court.

The pretrial conference also may consider disposition of the action and any other matters deemed relevant.]