

**SUPREME COURT - NASSAU COUNTY**  
**IAS PART 21 – PART RULES & PROCEDURES**  
(revised 03/01/12)

**Justice:** HON. NORMAN JANOWITZ  
**Law Clerk:** SEGAL MAGORI, ESQ.  
**Secretary:** SONIA GALLONE  
**Part Clerk:** JODI ALBERT

**Phone:** (516) 493-3424  
**Courtroom:** (516) 493-3427  
**Fax:** (516) 571-0770

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**I ADJOURNMENTS**

**A. Motions and Status Conferences:**

1. Applications to adjourn conferences or motions on consent must be received by Chambers via facsimile by **2:00 p.m.** on the business day prior to the conference date or return date of the motion. Applications for adjournments **MUST** be made using the Request for Adjournment Form which can be obtained through chambers or through the OCA website.

The Request for Adjournment Form is to be filled out **completely**. Incomplete forms or forms received after **2:00 p.m.** on the business day prior to the conference date or return date shall be summarily denied, unless the Court is advised of extraordinary circumstances which will be taken into consideration.

If the application is based on counsel's actual engagement on another matter, an Affirmation of Actual Engagement, in conformity with 22 NYCRR Part 125, must accompany the Request for Adjournment Form.

The Attorney for the Child(ren) shall be notified of all adjournment requests and must, likewise, consent thereto.

If the application is granted, a letter confirming same shall be faxed to chambers, the same day the application is granted.

2. Letters confirming adjournments shall state that the Court has adjourned the conference or motion on consent of the parties to the specified date, and shall contain the full names of both parties, the index number as well as a notation indicating the current date the matter is on the Court's calendar and that all parties have been copied.

3. Adjournment requests which are left on the Chamber's voice mail shall be disregarded.

**B. Preliminary Conference:**

1. Adjournments of the Preliminary Conference will not be granted absent a compelling reason for same. Counsel are directed to review the provisions of 22 NYCRR § 202.16 (f) concerning conferences.
2. In addition to scheduling a Certification Conference as part of the Preliminary Conference Order, the Court may direct that a pre-trial conference also be held at the time of the Certification Conference in which event, the rules concerning pretrial conferences as hereinafter set forth, shall be applicable.
3. Discovery deadlines, Certification Deadlines and Note of Issue deadlines, will be enforced. Deadlines may not be extended absent prior approval by the Court.

**II MOTIONS**

**A. Pre-Motion Conferences:**

1. Prior to making or filing any motions, including applications to be relieved, counsel for the moving party **MUST** arrange for a conference call to be held with his/her adversary and the Court to discuss the issues involved and the possible resolutions thereof. The Attorney for the Child(ren) shall also be notified and included in such conference calls. Counsel fully familiar with the matter and with authority to bind their clients **MUST** be available to participate in the conference.
2. If the matter can be resolved during the conference, an order consistent with such resolution may be issued.
3. If the matter cannot be resolved, the Court will set a briefing schedule for the motion which shall be "So Ordered."

**B. Submission of the Motion**

1. Appearances of all **Counsel and parties** are required on all motion return dates unless specifically waived by the Court.
2. All exhibits must be clearly tabbed; motions not consistent with this rule will be rejected and returned to counsel.

3. Motions are to be served and filed in conformity with CPLR §2214. All motions must be organized in such a manner so that each branch of the motion stated in the Notice of Motion or Order To Show Cause is preceded by a number or letter. Said number/letter designation shall be used in the supporting affirmations and affidavits and shall correspond to the number/letter used for each branch as set forth in the Notice of Motion or Order To Show Cause. Motions not consistent with these rules will be rejected.
4. No sur-reply, affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.
5. The Court will determine, after submission, whether oral argument is warranted. Upon such determination, counsel for all parties will be contacted and advised of the new adjourned date for purposes of oral argument.
6. Counsel are requested to provide the Court with SELF-ADDRESSED, STAMPED ENVELOPES with the submitted papers in order to facilitate delivery of the Court's decision.
7. All motions seeking pendente lite relief pursuant to the new mandatory maintenance guidelines effective October 13, 2010 must include a temporary maintenance guidelines worksheet.

**C. Application for a Stay or Temporary Restraining Order**

1. Any Order to Show Cause seeking **any** injunctive relief, including a stay or TRO, must be made in accordance with 22 NYCRR 202.7(f). The moving party shall advise the Court as soon as practicable of counsel's intent to make such application.
2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made on the call of the motion calendar. Failure to apply for such extension shall result in the automatic vacatur of the stay or TRO, unless the Order to Show Cause provides otherwise.
3. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and affirmation explaining in detail the nature of the emergency. In addition to the foregoing, the movant should be prepared to appear in Court and to make a record before the Court, if the Court requires same.

**D. Interim Partial or Full Settlement**

If all or part of a submitted motion is settled, counsel shall forward the original stipulation of settlement to the Court. Such stipulation shall be accompanied by a letter setting forth the date the motion was submitted, what aspects of the motion have been settled and what issues remain to be decided. If the motion is resolved in its entirety the movant shall indicate same. If the motion is resolved, in whole or part, on the record, counsel shall obtain such transcript so that same can be “so ordered”, unless the Court otherwise directs.

**III COURT APPEARANCES**

- A. All Court appearances, unless otherwise specified or directed by the Court, shall be scheduled for 9:30 a.m.
- B. Attorneys and Pro Se litigants must alert the Court Officer or Court Clerk of their presence and complete a sign-in sheet. If counsel must also appear before another Judge, counsel must advise the Part Clerk or Court Officer where counsel can be reached. All counsel and litigants are directed to appear for each and every conference (including preliminary, status and compliance conferences).
- C. All parties and attorneys, are required to appear at all scheduled dates, unless otherwise directed by the Court.
- D. All conferences will be held in the order in which **all** attorneys and parties have checked in.

**IV COMMUNICATION WITH CHAMBERS**

- A. In all communications with chambers by letter, the title of the action, full names of the parties, date matter is next on the Court’s calendar and index number shall be set forth, with copies simultaneously delivered to all counsel. *Ex parte* communications will be disregarded.
- B. Copies of correspondence between counsel shall not be sent to the Court. Such copies shall be disregarded and not placed in the Court's file.
- C. The Court will not accept telefax communications without prior permission.
- D. No out of Court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, and, if applicable, the Attorney for the

Child(ren), submitting the executed settlement agreement/stipulation or certifying that such agreement/stipulation has, in fact, been executed.

- E. The Court shall not accept *ex parte* telephone communications on substantive issues.

## **V SANCTIONS**

The Court will not consider a sanctions application unless the moving party first seeks withdrawal or discontinuation of the offending act or action or demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

## **VI TRIAL RULES: APPLICABLE TO ALL TRIALS AND ALL HEARINGS**

- A. A Note of Issue and Certificate of Readiness are to be filed within 30 days after certification unless otherwise instructed by the Court. A statement of Proposed Disposition shall be filed with proof of service along with the Note of Issue. 22 NYCRR § 202.16 (h)
- B. After a matter has been certified as trial-ready, the Court may set a date for a Pre-Trial Conference. Pre-Trial Conferences will be scheduled approximately 30 days prior to the trial date. Counsel with knowledge of the case and the parties must attend.

There will be no adjournments without the Court's consent. At the Pre-Trial Conference, the Court shall provide for the submission or scheduling of the following to the extent not previously ordered:

1. *In limine* applications must be on notice to all parties returnable at least 10 days prior to the first scheduled trial date.
2. Annotated Statements of Proposed Disposition in which all of the criteria listed in the statute are provided and counsel's position stated as to each such criteria for both equitable distribution and maintenance issues.
3. Evaluations: In the event there are any valuations of a business interest or increased earning capacity, a cash flow chart shall be submitted by each side, listing counsel's proposal for payment thereof, as well as any other payments claimed due (such as payor's obligations for maintenance, child support, income taxes, etc.).

4. Exhibits: Counsel for the parties shall consult prior to the Pre-Trial conference and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. At the Pre-Trial conference date, each side shall then mark its exhibits into evidence as to those to which no objection has been made. All exhibits not consented to shall be marked for identification only. If the trial exhibits are voluminous, counsel shall consult the clerk of the part for guidance. The court will rule upon the objections to the contested exhibits at the earliest possible time. Exhibits not previously demanded which are to be used solely for credibility or rebuttal need not be pre-marked.
5. Trial Notebook: The parties shall submit **trial notebooks two (2) weeks prior to trial** with all listed exhibits separately and consecutively tabbed [numbers for Plaintiff and letters for Defendant], with the original documents for the witnesses and a copy for the Court. At the conclusion of the trial all exhibits not received into evidence will be removed from the notebooks and returned to counsel.
6. A list of proposed witnesses for the Court's information must be submitted at least 5 business days prior to trial, the order in which they will testify and the estimated length of their testimony.
7. A list of all expert witnesses with copies of their reports must be submitted at least 5 business days prior to trial.
8. Marked pleadings, to be submitted before opening statements must be submitted at least 5 business days prior to trial.
9. Net worth statements **MUST BE** updated and sworn to within thirty [30] days of the trial date.
10. A statement of stipulated facts. [Parties are encouraged to stipulate to facts and/or exhibits].
11. All trial exhibits, whether stipulated or contested on admissibility, should be **pre-marked by the Court Reporter at least one (1) day prior to trial.**
12. If deposition transcripts are to be utilized, a copy of the witness' deposition transcript should be available to the Court. Counsel for the parties shall consult prior to trial and shall, in good faith, attempt

to agree upon the portions of deposition testimony to be offered into evidence without objection. The parties shall delete from the testimony to be read the questions and answers that are irrelevant to the point for which the deposition testimony is offered. Each party shall prepare a list of deposition testimony to be offered to which no objection has been made and, a separate list of deposition testimony as to which objections have been made. At least ten days prior to trial or such other time as the court may set, each party shall submit its list(s) to the Court and other counsel, together with a copy of the portions of the deposition testimony as to which objection has been made. The Court will rule upon the objections at the earliest possible time after consultation with counsel.

13. An accounting of any claimed pendente lite arrears supported by backup documentation.
14. Copies of life insurance policies and medical and dental policies of insurance in effect as of the date of the commencement of the action and as of the present date.
15. A list of issues to be determined by the Court including any pretrial motion issues referred to the trial by the Court.
16. Both sides shall have available at least four (4) copies of all Exhibits which are expected to be introduced into evidence.
17. Both sides shall have available at least four (4) copies of all deposition transcripts and prior statements which are expected to be read into the record or utilized on cross examination at the trial.
18. Both sides shall have available at least four (4) copies of any and all of the following.
  - (a) relevant orders issued by another court, such as final orders of custody or temporary or permanent orders of protection issued by the Family Court;
  - (b) any order of this Court that referred issues raised in motion practice to the trial of the action;
  - (c) any relevant so-ordered stipulation of this Court as well as transcripts of stipulations read into the record in open court during the pendency of the action; and

- (d) any properly executed and acknowledged stipulation or agreement relating to material issues in this action.
19. Counsel are urged to stipulate that any issue relating to an award of counsel and expert fees be resolved by the Court, without testimony, upon the submission of affirmations and other appropriate documentation from counsel.
  20. Counsel are required to stipulate in writing to any and all relevant material facts that are not and should not be in dispute. If it appears during the course of the trial that no bonafide attempt was undertaken to secure such stipulation, the Court will likely recess and delay the trial until there is compliance.
  21. On the date the trial is scheduled, counsel are expected to be prepared to discuss settlement of all unresolved issues and to have complied with each of the trial rules set forth herein.
  22. **On the day before the scheduled trial, counsel are directed to contact the Part Clerk or Chambers to confirm the Court's availability.**
  23. Objections should be stated without argument except to simply state the ground therefor, e.g., hearsay, relevance, etc. If further argument is appropriate, it will be invited by the Court.
  24. Closing Arguments/Summations shall be submitted in writing, consisting of no more than 25 pages along with the trial transcript within thirty (30) days of the conclusion of trial. Where an excerpt of a witness's testimony is quoted from the record, at the end of the quote, the transcript page number shall be inserted parenthetically and keyed to the transcript. Said Summations shall contain the following clearly delineated sections: a) a chronological procedural history of the action, including copies of all relevant orders, written stipulations and transcripts of stipulations placed on the record; b) a recitation of the issues to be determined; c) an in depth summary of the testimony of each witness; d) a summary of the findings of any expert report received in evidence; e) a summary of the exhibits in evidence; f) a detailed recitation of counsel's contentions as to the testimony and exhibits in evidence; and g) application law. The right to submit a Summation shall be deemed waived if not timely submitted to the Court. A copy of each side's and if applicable, the child's or children's Summation shall be served on all other parties

simultaneous with filing with the Court. Responses to the Summations are prohibited and will not be considered. Summations shall have a Table of Contents. Failure to provide such Table of Contents may result in the Court not considering such summations.

## **VII MISCELLANEOUS**

- A. CONFERENCES/TRIAL** - If there are any outstanding motions (submitted or pending) at the time of the conference/trial the Principal Law Clerk and/or Judge must be so informed of same that day; the submission date must be provided by counsel. Copies of such motions should be available to the Court at the time of such conference.
- B. ATTORNEYS OF RECORD** - Attorneys who have appeared in the matter are to make all appearances until they are relieved by the Court or a Consent to Change Attorney(s) has been filed with Part 25 and with the Clerk of the Court.
- C. STAFF** - The Court functions through the aid and assistance of the courtroom and Chambers staff. They are expected to treat attorneys, litigants and others in a dignified and civil manner, they as well are to be treated in a civil and dignified manner.
- D. ATTORNEY FOR THE CHILD(REN)** - Counsel and the Attorney for the Child(ren) are reminded that the Attorney for the Child(ren) acts in the role of counsel for the child(ren). As such, the Attorney for the Child(ren) are bound by the same ethical and procedural rules as counsel for the parties. Ex-parte communications between the Attorney for the Child(ren) and the Court will not be permitted.
- E.** Failure to appear at any scheduled call of the calendar or at any conference may result in a default and/or a dismissal of the action (NYCRR §202.27).
- F.** All trials and hearings shall continue day-to-day until completed.
- G.** It is incumbent upon all counsel and parties appearing before this Court to insure they have this Court's current Part Rules and are in compliance with same.
- H.** These rules are in addition to the Uniform Rules for New York State Trial Courts and the Local Rules of Court. Failure to comply with any rules or orders of this Court may result in preclusion and/or sanctions without further notice.

**HON. NORMAN JANOWITZ**  
**REQUEST FOR ADJOURNMENT FORM - Part 25**

**THIS FORM MUST BE FILLED OUT COMPLETELY**  
**INCOMPLETE FORMS WILL BE DISREGARDED**

Case Name: \_\_\_\_\_ Index # \_\_\_\_\_

RJI Date: \_\_\_\_\_ Date Issue Joined: \_\_\_\_\_ Date PC Held: \_\_\_\_\_

Date on Calendar: \_\_\_\_\_ Last Court Appearance: \_\_\_\_\_

Req'd Adj. Dates (At Least 3): 1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_

**ALL REQUESTS MUST BE ON CONSENT AND ALL REQUESTED ADJOURN**  
**DATES MUST BE CONFIRMED WITH YOUR ADVERSARY AND ATTORNEY FOR**  
**THE CHILD, IF APPLICABLE, PRIOR TO MAKING THE REQUEST.**

Nature of Conference: \_\_\_\_\_

If Motion, Nature of Relief Sought: \_\_\_\_\_

Reason for Adjournment (Affirmation of Actual Engagement must be attached if applicable):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Discovery Completed (Y/N): \_\_\_\_ Was N/I filed? \_\_\_\_ Date N/I to be filed: \_\_\_\_\_

**Contact Info:**

Attorney contacting Court and who attorney represents: \_\_\_\_\_

Person Making Call: \_\_\_\_\_ Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

Adversary's name: \_\_\_\_\_ Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

**ALL REQUESTS MUST BE RECEIVED VIA FAX (516) 571-0770 BEFORE 12:00 P.M.**

**OF THE BUSINESS DAY PRIOR TO THE CONFERENCE OR MOTION RETURN DATE**

**PLEASE FAX CONFIRMING LETTER OF DATE OF ADJOURNMENT**

PLEASE NOTE:

THERE ARE NEW PRELIMINARY CONFERENCE AND INFORMATION FORMS THAT ARE REQUIRED TO BE COMPLETED **PRIOR** TO THE PRELIMINARY CONFERENCE.

FOR YOUR CONVENIENCE, PLEASE VISIT THE NASSAU COUNTY MATRIMONIAL CENTER WEBSITE AT:

<http://www.nycourts.gov/courts/10jd/nassau/matrimonial/index.shtml>

AND CLICK ON THE “FORMS” TAB,

**OR**

THE P.C. FORM MAY BE OBTAINED AT:

<http://www.nycourts.gov/courts/10jd/nassau/matrimonial/forms/PC-ORDER-2010.pdf>

AND THE INFORMATION FORM MAY BE OBTAINED AT:

<http://www.nycourts.gov/courts/10jd/nassau/matrimonial/forms/PC-INFO-SHEET-2010.pdf>

**PLEASE HAVE THESE FORMS COMPLETED AND BE PREPARED TO PROVIDE ALL INFORMATION REQUIRED AT YOUR CONFERENCE WITH THE COURT.**