

SUPREME COURT - NASSAU COUNTY
IAS Part 26 RULES & PROCEDURES
Hon. Sondra K. Pardes

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**THE FOLLOWING RULES SHALL APPLY TO CIVIL (NON-MATRIMONIAL)
ACTIONS:**

I. ADJOURNMENTS:

A. Motions and Status Conferences:

1. Adjournments of motions and conferences may be granted if there is consent of all parties **and prior approval of the court**. If all parties do not consent to the adjournment, application shall be made in Court on the day of the conference or motion.
2. Adjournments of **civil motions** shall be sought through the courtroom clerk. An adjournment of a civil motion of up to thirty days, upon consent of both sides, will in most cases be granted. In such cases the courtroom clerk will advise as to whether the adjournment has been granted. Requests for additional adjournments of civil motions shall be sought through chambers, and chambers staff will advise as to whether the adjournment has been granted.
3. Adjournments of **conferences** shall be sought through chambers. A date certain, consented to by all parties, must be requested at the time the adjournment is sought.
4. Letters confirming adjournments **shall contain** full names of all parties, index number, and shall specify if motion or conference is being adjourned.
5. Adjournments requested because of the actual engagement of counsel **on trial** must be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Part 125.

6. **Adjournment requests which are left on the chamber's voice mail will be disregarded.**

B. Preliminary Conference

1. Preliminary conference adjournments are to be addressed to the DCM Clerk's office and not to chambers.

II. MOTIONS

A. Motion Appearances and Submission

1. All **civil motions** relating to **DISCOVERY** require appearance of counsel and pro se parties on the return date of the motion or Order to Show Cause, unless otherwise specifically waived by the court. **All other motions will be submitted without an appearance.**
2. All motions not requiring an appearance shall be marked "submitted for decision" by the courtroom clerk on the scheduled return date, unless an adjournment is sought and obtained prior to 12:30 p.m. on the scheduled return date.

B. Form and Timing for Motions

1. In the event a case is already scheduled for a conference with the court, counsel should endeavor to make the return date of a motion, if possible, on said date.
2. 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 a letter. Said number or letter designation shall be used in the supporting affirmation 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.
3. All exhibits must clearly be tabbed; no exhibits shall be double sided; no mini-scripts are accepted. All submissions shall be fully and securely bound and shall have a litigation back attached thereto. **Motions not consistent with these rules will be rejected.**

4. All papers must be submitted in a timely manner. The court will not consider late papers absent prior court approval. No sur-reply in any format (affidavit, affirmation, or letter) will be accepted or considered without leave of the court.
5. Pursuant to CPLR §3212(a), a motion for summary judgment shall be made no later than ninety (90) days after the filing of the note of issue, except with leave of court on good cause shown. Any physician affirmations, reports or other medical proof submitted in threshold motions shall contain the original signatures of the physician or provider.
6. When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document. Proposed orders or judgments incorporated within the motions will be considered as exhibits, treated as such, and may be disregarded.
7. Motions brought pursuant to CPLR §§3211, 3212, or 3213 shall not automatically stay disclosure.

C. Oral Argument

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 the purposes of oral argument.

D. Application for a Stay or Temporary Restraining Order (TRO)

1. If an Order to Show Cause seeking injunctive relief, including a stay or TRO, is to be submitted, it must comply with Uniform Rule §202.7(f). The movant shall first consult with chambers as to a convenient time for counsel to appear with regard to the compliance with Uniform Rule §202.7(f).
2. At any conference of the matter, if an Order to Show Cause seeking any injunctive relief, including a stay or a TRO, is submitted or pending, counsel shall advise the court of the pendency of such application, the return date of such Order to Show Cause, the relief sought and whether an immediate hearing is sought.
3. Requests to continue or vacate a stay or a 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.

E. Interim Partial or Full Settlement

1. If all or part of a submitted motion is settled, counsel for the movant shall send a letter to the Court, on notice to all parties, 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 an order is required, a proposed order with notice of settlement on at least ten days' notice, or a signed waiver of notice of settlement, shall be submitted to the Court.
2. If a motion is resolved on the record, in whole or in part, movant shall obtain such transcript so that the same can be "so-ordered", unless the court directs otherwise.

III. COURT APPEARANCES

- A. The court will begin conferencing ready matters at 9:30 a.m. in the order in which all attorneys are checked in. There is no calendar call in the part.
- B. Attorneys and pro se litigants must check in with the court officer or courtroom clerk and complete the sign-in sheet. If counsel need to appear before another judge, they must advise the courtroom clerk or court officer where they can be reached and note it on the sign-in sheet.
- C. All counsel and pro se litigants are directed to appear for each and every conference unless specifically excused by the court.
- D. Counsel who appear in the part must be fully familiar with the case for which they appear and fully authorized to enter into agreements, both substantive and procedural, on behalf of their clients.
- E. Counsel are encouraged to confirm all scheduled appearances with their adversary the day before the appearance date to ensure a prompt appearance.

IV. COMMUNICATIONS WITH CHAMBERS

A. INQUIRES

1. All letter communications with chambers shall set forth the title of the action, full names of the parties and index number, with copies simultaneously delivered to

all counsel. ***Ex parte* communications will be disregarded, except as otherwise provided herein.**

2. **Copies of correspondence between counsel shall not be sent to the court.** Such copies will be disregarded and not placed in the court's file.
3. The court will not accept telefax communications or submissions without prior permission.
4. The court shall not accept ***ex parte*** telephone communications on substantive issues.
5. E-mail correspondence with chambers staff is not permitted unless prior authorization is obtained.
6. Attorneys shall not call chambers during the daily lunch hour which is from 1:00 p.m. to 2:00 p.m.

B. SETTLEMENTS

No out of court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, certifying that such agreement/stipulation has been executed.

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 action or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

VI. TRIAL PART RULES

- A. A note of issue is to be filed within 90 Days after certification, unless otherwise specified in the certification order. Counsel for Plaintiff shall pay the requisite fee with the County Clerk and ensure that the note of issue is submitted to the clerk who will then assign a calendar number.
- B. **At the first appearance of all cases assigned to the part for trial**, a pre-trial conference will be held. At the conference, the court shall set a schedule for the following:

1. *In limine* applications: Any party intending to make a motion *in limine* shall submit a brief written affirmation setting forth the nature of the application and any supporting statutory case law. The party shall furnish the court with an original and two (2) copies and provide counsel for all parties with a copy. There shall be a separate affirmation for each motion *in limine*.
2. Proof of filing of the note of issue.
3. Pre-trial memoranda providing the court with cited case law to be considered by the court.
4. A courtesy copy of each exhibit, whether intended to be introduced into evidence to the court or not, shall be pre-marked by the court reporter. As to those exhibits marked for identification, the court will address their admissibility *in limine* or during the trial, as may be appropriate.
5. All trial exhibits, whether the parties stipulate to admit them into evidence or not, shall be pre-marked by the court reporter. As to those exhibits marked for identification, the court will address their admissibility *in limine* or during the trial, as may be appropriate. **The court will make the final determination as to the admissibility into evidence of any exhibit, regardless of stipulation.**
6. A list of proposed witnesses for the court's information.
7. **Expert witnesses** - Each party shall, with respect to each expert witness that the party intends to call, submit a list identifying with specificity any record, report, photograph, film, computer animation, x-ray, CT scan, MRI, EMG study or similar item or items to which an expert witness is expected to make reference as supporting in whole or in part the opinion he or she will offer. Where the exhibit is a many-paged document such as a hospital record, office record or voluminous (more than 20 pages) business record, counsel shall identify by way of tabs, post-its, page numbering or similar device, the particular page or pages to which references will be made.
8. Marked pleadings are to be submitted before opening statements.
9. Parties are encouraged to stipulate to facts and/or exhibits.
10. Requests to Charge and Verdict Sheets - Each party shall supply the court

with preliminary requests to charge and proposed verdict sheets. Charges from Pattern Jury Instructions may be identified by number without necessity of reproduction unless a modification of the standard charge is requested, in which case the modification is to be highlighted. Each party shall supply an original and three (3) copies to the court and furnish every other party with a copy. The preliminary requests may be supplemented, modified, or edited as the trial progresses.

11. If deposition transcripts are to be used, a copy of the witness's deposition transcript should be available to the court.
12. 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 requested by the court.
13. Trial counsel are responsible for redactions of all evidence.
14. Trials will be conducted on a continual daily basis until conclusion. As such, no adjournments or delays during trial will be accepted unless exigent circumstances exist.
15. Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc., at the end of a trial, unless, in the case of non-jury trials, the court reserves its decision. In all cases, exhibits, pleadings, transcripts, etc., not retrieved within thirty (30) days after the court renders a decision in a non-jury trial, shall be disposed of.
16. Malpractice Departures - In cases involving claims of professional negligence, on the next trial session after a party rests or such other time as the court may direct, each party [plaintiff] shall furnish the court and counsel for all parties with a list of the departures from the standards of good and accepted practice which that party asserts were testified to by its expert witness or witnesses. Where the testimony has been transcribed, page references will be required.
17. Interpreters- On the first appearance in the part, any party who will require the assistance of an interpreter shall notify the clerk in the part and specify the language (including dialect, where appropriate).
18. Equipment- On the first appearance in the part for trial, any party who intends to rely upon the court to supply equipment for utilizing a video tape recording, an audio tape recording, demonstrative evidence, or the like, shall notify the clerk in the part.

19. Nassau County Police Officers- On the first appearance in the part for trial, any party who has issued a subpoena to secure the appearance of a Nassau County Police Officer shall notify the clerk in the part so that the clerk may facilitate the officer's appearance through police liaison.

VII. MISCELLANEOUS

A. CONFERENCES/TRIAL

If there are any outstanding motions (submitted or pending) at the time of the conference/trial, the law secretary and/or the judge must be so informed that day and the submission date must be provided by counsel. Copies of such motions should be available to the court at the time of such a 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 fully executed consent to change attorney has been filed with Part 26 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; as well, they are to be treated in a civil and professional manner.

D. SETTLEMENTS

With respect to actions which have been settled or otherwise discontinued, counsel must comply with 22 NYCRR 202.28 or sanctions may be imposed. If a discontinued action is on a trial calendar, a copy of the stipulation or statement shall also be filed with the clerk of the trial part.

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THE FOLLOWING RULES SHALL APPLY TO MATRIMONIAL ACTIONS:

ADJOURNMENTS:

Court Conferences: Requests for adjournments on consent may be made by contacting chambers. The caller shall indicate the date requested to which all counsel have consented in advance. Upon the adjournment being granted, a confirming letter shall be faxed to the court.

No more than one telephone call per adjournment shall be permitted.

Motions: Requests for adjournments on consent may be made by contacting chambers. The caller shall indicate the requested date, to which all counsel have consented in advance, except as set forth below. Upon the adjournment being granted, a confirming letter shall be faxed to the court.

No more than one telephone call per adjournment shall be permitted.

Confirming Letters: Letters confirming adjournments shall state whether a motion or a conference is being adjourned, the name of the parties, the index number, the original date and the adjourned date.

Attorney for the Child: No adjournments will be granted without the consent of the Attorney for the Child.

Applications for Adjournments: In the event that a consent to adjourn a motion or conference has not been obtained from opposing counsel, the application shall be heard by the court on the original return date.

MOTIONS:

It is urged that a telephone conference with the court be made prior to the commencement of motion practice, except for motions initiating an action. Only counsel with authority to resolve the disputed issue should participate in the pre-motion conference. If an Attorney for the Child has been appointed, he or she must participate in any conference where the disputed issues involve a child.

Appearances are required with the submission of a motion, unless otherwise directed by the court.

All exhibits to motions shall be clearly tabbed.

Sur-replies shall not be considered.

CORRESPONDENCE:

Except for the adjournments of conferences and motions as set above, the court will not read *ex parte* communications or copies of correspondence between or among counsel.

The court will accept by fax, a copy of the first and signature page of a written stipulation or agreement as confirmation that a matter has been resolved.

TRIAL RULES:

Following the certification conference at which a trial date shall be assigned, counsel shall comply with 22 NYCRR Sections 202.21 (Note of Issue and Certificate of Readiness) and Section 202.16(h) (Statement of Proposed Disposition).