

MEMORANDUM

TO: All Counsel
FROM: Oswego County Court Clerk’s Office
SUBJECT: Oswego Motion Papers - Justice James W. McCarthy

PLEASE NOTE: COUNSEL FOR THE MOVING PARTY IS REQUIRED TO SERVE THIS NOTICE ON ALL OPPOSING COUNSEL.

Under the Individual Assignment System, the attached motion¹ has been assigned to Justice McCarthy. In an effort to give all motions fair and thorough consideration, all answering affidavits, and briefs on motions must be **received** by chambers no later than 4:00 pm seven [7] days immediately prior to the return date. Reply affidavits and briefs must be received no later than 12:00 pm two [2] days prior to the return date. **[Note that electronic or facsimile transmissions will not be accepted by the court.]** In general, Justice McCarthy hears all Oswego motion arguments on the first and third Thursdays of the term. Therefore, **answering affidavits and briefs and reply affidavits and briefs received after the deadline outlined above will not be accepted by chambers.** This rule does not diminish, in any way, the time requirements set forth in CPLR 2214[b] for answering and reply papers. The courtesy of the bar in filing and serving answering and reply affidavits as far in advance of the motion return date is appreciated. All counsel [movant and respondent] are **Ordered** to file an original and one copy of all papers with the Court. **The court will not hear any motion if it does not receive an original and one copy of any or all motion papers as ordered.** The Court will retain copies of all motion papers in its file after the motion is concluded.

Please be further advised that **COPIES [NOT ORIGINALS]** of affidavits of service of the original motion must be received at Justice McCarthy’s chambers no later than three [3] days prior to the return date. Affidavits of service of answering affidavits and reply affidavits must be received at Justice McCarthy’s chambers no later than at least two [2] days prior to the return date [you may send facsimile copies of all affidavits]. If the procedure regarding filing of copies of the affidavits is not complied with, Justice McCarthy will not entertain the motion, or consider the answering or reply affidavit, as the case may be.

Reply affidavits must only refer to matters brought forth in answering affidavits. No new matters are allowed in reply affidavits. Counsel are referred to CPLR §2214[b] wherein only Notice of Motion and supporting affidavits, answering affidavits, and reply affidavits are referenced. There is no surreply allowed unless “. . . the Court for good cause shall otherwise direct . . .” New York Civil Practice Law and Rules §2214[c]; see also, Flores vs. Stankiewicz, 35 A.D.3d 804 (2nd Dept. 2006); Graffeo vs. Paciello, 46 A.D.3d 613 (2nd Dept. 2007).

The successful party upon the motion must send a sufficient mailer to the Court with the proposed order for the court to return said order to that party for filing.

All motions are orally argued at 9:30 a.m. on the motion return date.

Any attorney requesting an adjournment must follow the rule set forth in 22 NYCRR 202.8 [e-1] or [e-2].

(Revised September 27, 2013)

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The term motion includes Orders to Show Cause and the rules with respect to answering and reply papers outlined above apply with equal effect. Note, if an Order to Show Cause provides for service of answering and reply papers, the directive of the Order to Show Cause and not this memorandum shall control.