

ERIE COUNTY FAMILY COURT JUDICIAL RULES

SCHEDULING AND START TIME:

1. Check in with Queuing Clerk immediately upon arrival.
2. If you must leave to take care of another matter, notify Law Clerk and co-counsel or Queuing Clerk; case may proceed without you.
3. If attorneys/litigants are running behind schedule, please contact co-counsel, your clients and notify court. After 15 minutes, the case may be called **without** that attorney/litigant **upon the request of the present litigant/counsel or as required by the court's calendar.**
4. Attorneys need to meet with clients and opposing counsel before the scheduled appearance time to ensure that everyone is ready when your case is called into the Courtroom. Please make all requests for copies of petitions, orders or requests to review reports **prior** to your conference with the Court and not on the appearance date.
5. Notify Queuing Clerk if client will not be appearing.

ADJOURNMENTS:

1. Make your adjournment request in writing and deliver or fax it to the Judge's Secretary. The request letter must indicate that all counsel and/or pro se litigants have been contacted regarding the request and whether they consent or object.
2. The request letter must contain three (3) or more dates and times that are convenient for all counsel and/or pro se litigants that are consenting to the adjournment.
3. The Secretary will notify you of the new date and time, if your request has been granted. All adjournment requests are considered on a case by case basis. No adjournment is granted unless and until the Court notifies the requesting party of the adjournment, even if all counsel and parties consent. The requesting party is obligated to notify all other parties in writing. Until confirmation from the Court is received, all counsel and parties should proceed as though the case will go forward as scheduled. **NO ADJOURNMENT SHOULD BE CONSIDERED GRANTED UNTIL a confirmation letter to counsel/litigants is received by the Court.**
4. Unless there are **exceptional** circumstances, **no adjournments will be granted the day of or the day before a case is scheduled to be heard.**

EMERGENCY TRIAL ADJOURNMENTS:

Trial dates are considered to be “date certain” and cannot be rescheduled absent an emergency.

1. All requests for trial adjournments must be made in writing, on notice to all counsel and unrepresented parties. Requests by email will not be accepted. Judge Szczur requires an appearance before her in the courtroom to reschedule a trial.
2. No adjournment is granted unless and until the Court notifies the requesting party of the adjournment, even if all counsel and parties consent. The requesting party is obligated to notify all other parties in writing. Until confirmation from the Court is received, all counsel and parties should proceed as though the trial will go forward as scheduled.
3. Adjournments requested less than two weeks prior to trial require an appearance on the record. It is the responsibility of the attorney requesting the adjournment to coordinate with chambers, counsel, and any unrepresented parties to schedule a time when all can be present for such appearance. Unrepresented parties may appear by phone.
4. At the scheduled appearance, the requesting attorney shall explain, on the record, the reason for the adjournment request and all other parties may express their positions in regard to the request. The Court will then issue its ruling.

MOTION PRACTICE:

1. A **Notice of Motion** needs to be made in writing and pursuant to CPLR 2214(b), should be served 13 days in advance for service by mail and in advance 8 days for personal service. All opposing counsel/litigants including attorney for the child must be placed on notice for the relief sought. A separate motion must be filed for each petition, even if seeking the same relief. The Docket Number(s) and corresponding caption should be listed as they appear on the petition. (Multiple dockets, if contained on one petition, are permitted.)

Trial motions: Motions in advance of trial, such as discovery issues, judicial subpoenas or otherwise shall be made in advance of trial following CPLR notification requirements.

2. Some motions on occasion may be made orally, such as trial motions to dismiss at the close of Petitioner’s case, or a motion to dismiss a facially insufficient petition.

3. **Answering Affidavits** must be submitted in writing. Pursuant to CPLR 2214(b), if the Notice of Motion was served 16 days in advance, then responses are due 7 days before it is to be heard. If the Motion was served less than 16 days in advance, then responses are due at least 2 days in advance.
4. **Emergency Relief:** If an emergency motion or Order to Show Cause is filed in a pending matter, ALL attorneys/litigants shall be provided with notice. The Court must be provided with an original and at least one copy for conforming. Please also provide 3 proposed dates and times for the OSC to be heard.
5. **Judicial Subpoenas:** Subpoena should be mailed to chambers or dropped off at the record room for review by the Law Clerk prior to signature.

ORDER SUBMISSION:

1. All submitted orders should be sent through chambers, either by mail or by dropping them off in the Record Room. Orders should not be left with the queuing clerk.
2. Proposed Orders can be reviewed/circulated in Courtroom.
3. Each petition filed requires a separate disposition and Order. If a settlement is reached, a determination should be made as to which petition the Order is to be placed on; all other petitions should be withdrawn.
4. A cover letter must accompany the submitted Order and should indicate the approval of all counsel and/or parties. The cover letter should indicate which, if any, of the petitions are being withdrawn.

STIPULATIONS:

1. If your case is in the courtroom on a particular day and you were sent out and given a few minutes to try to work out a settlement, please let the Law Clerk or Court Officer know when you are ready to go back in and report.
2. You may do any one of the following to settle a case with an agreement:
 - Place your stipulation on the record, and submit a Stipulated Order for the Judge's signature on notice to opposing counsel/litigants.
 - Submit an Agreement of Stipulation to the Court for incorporation into a Court Order, following procedures for order submission. All stipulations must contain the parties' signatures, notarized with verification language and a signature of the AFC if applicable.
 - Submit an original Stipulated Order to the Court for the Judge's signature.

TRIALS:

1. An “attorney only” pretrial conference may be scheduled to discuss a pending trial with the Judge. These may be scheduled either in person with the Court if all attorneys are present or by letter with prior consent obtained from opposing counsel. Please suggest 3 dates and times all counsel can be present.

2. **Full day trials:** Please arrive early to confer with opposing counsel and stipulate to any facts that you can. Furthermore, to save time, please let the FTR Clerk or Court Reporter know what exhibits you would like pre-marked and whether or not they are being moved into evidence by stipulation.