

FAMILY COURT OF THE STATE OF NEW YORK COUNTY OF NASSAU - PART 8

COMBINED PART RULES & PROCEDURES

Family Court Judge: **HON. MERIK R. AARON**
Court Attorney: **KRISTEN REANY, ESQ.**
Secretary: **MICHELLE BARRETTA**
Part Clerk: **ELIZABETH DeROSA**

Phone: **(516) 493-4000**
Courtroom: **(516) 493-3039**
Fax: **(516) 571-9201**

The Family Court was established in 1962 as a statewide court with uniform procedures, eliminating the separate systems that had existed with the Children's Court upstate and the Domestic Relations Court in New York City.

I JURISDICTION

In addition to its jurisdiction over support, paternity, custody, adoption, guardianship, family offenses, child abuse and neglect proceedings, foster care approval and review, and termination of parental rights cases, the Family Court also has an exclusive original jurisdiction over juvenile delinquency and PINS (Persons in Need of Supervision) cases.

II DOCKET NUMBER PREFIXES

A = Adoption
B = Termination of Parental Rights
F = Support
G = Guardianship
K = Foster Care Review
L = Approval of Foster Care Placement
M = Court Consent to Marry
N = Neglect or Abuse
O = Family Offense
P = Paternity
R = Referral from Supreme Court
U = Uniform Interstate Family Support Act
V = Custody or Visitation

III TERMINOLOGY

SUPREME COURT

Plaintiff
Defendant
Complaint
Trial
Action
Verdict

FAMILY COURT

Petitioner
Respondent
Petition
Hearing
Proceeding
Disposition

The following rules and procedures apply to Part 8 cases only:

I. COURT APPEARANCES

Calendar Call for all cases will commence at 10:00 a.m. Attorneys, Litigants, and Attorneys for the Child(ren) for all matters must be present in the Courtroom at 9:30 a.m. on each and every Court date, unless otherwise directed by the Court. Late appearances will not be permitted without good cause.

Attorneys must sign in, and make certain that the Court Officers know that your clients are present, in room 204 prior to Calendar Call. All cases must be conferenced with the Law Secretary or Court Attorney in the Courtroom commencing at 9:15 a.m. Conferences with the Court will be conducted at the Bench during Calendar Call.

Attorneys should discuss the respective cases with their adversaries and clients prior to the Court date in an effort to reach an amicable resolution. Attorneys appearing on each Court date must be fully familiar with all of the outstanding issues regarding the case.

Copies of pending petitions or orders are available. Request copies prior to the case being called.

On each Court date, a Bench Conference will be conducted to determine whether the case is, or can be, settled. If the case cannot be resolved, the case will be scheduled for a future conference or Hearing on any pending Family Offense Petitions first, followed by a Hearing on any pending Custody/Visitation Petitions.

Final Calendar Call will be at 11:00 a.m. Litigants not appearing by Final Calendar Call may receive a Default ruling on their case. Issued Warrants on Family Court cases will not be recalled.

If a docket is marked "Final Against the Respondent," or "Final Against the Petitioner," failure to appear on the scheduled date will result in a default judgment or dismissal unless good cause can be shown.

Counsel is preparing the Final Order for signature must have the Order submitted by the date given by the Court. If it is not submitted by the submission date, counsel must request additional time in writing.

II. ADJOURNMENTS

A. Court Dates:

1. No adjournments of Court dates will be accepted or effective without the prior approval of the Court. Since each matter involves a multiplicity of cases, parties, and Attorneys, no adjournment or modification of a Court date will be granted unless based on unforeseeable or extraordinary circumstances.

2. A request for an adjournment of a Court date shall be made by fax or in person no later than 3:00 p.m. on the business day immediate preceding the scheduled Court date.

3. All Attorneys, Litigants and Attorneys for the Child(ren) must be advised of and consent to proposed adjournment requests and agree upon proposed adjournment dates.

4. Upon approval by the Court of an adjournment request, the requesting Attorney must immediately forward a confirmation letter to the Court (via fax and first class mail), and notify all Attorneys and the Attorney for the Child(ren), by phone call and letter (via fax and first class mail), that the Court has adjourned the Court date on consent of all of the parties. Each Attorney is responsible for notifying his/her respective client.

5. Upon denial of an adjournment request by the Court, all Attorneys, Litigants and the Law Guardian must appear in Court on the scheduled Court date.

6. Unless an adjournment request is specifically granted by the Court prior to the Court date, all parties must appear in Court on the scheduled Court date.

7. In addition to the above procedure, adjournment requests based on the unanticipated engagement of Counsel on another hearing or trial must also be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR § 125, and specifying the Court the Attorney is engaged in, the name of the Judge, the name of the case, the type of case, whether the engagement is on a Hearing or Trial, and the expected duration of the engagement. The Affirmation must be forwarded to Chambers no later than the business day immediately preceding the scheduled Court date (via fax and first class mail). Attorneys are directed not to send their clients to Court with an Affirmation of Engagement without previously notifying Chambers of the engagement. Phone call notification to Chambers on the morning of the scheduled Court date is unacceptable.

Engagement of Counsel shall mean actual engagement on trial or in argument before any State or Federal trial or appellate court. Pursuant to 22 NYCRR §125.1, priority is given in the following order:

- (1) Child protective proceedings;
- (2) Juvenile delinquency proceedings;
- (3) Felonies;
- (4) Misdemeanors;
- (5) Matrimonial actions;
- (6) Civil actions

B. Motions:

Applications to adjourn motion dates will follow the same procedure as adjournment requests for Court dates as indicated above.

C. Hearings:

Attorneys must be ready to proceed with scheduled Hearings and Trials. Hearings and Trials will be scheduled for 2:00 p.m. unless otherwise scheduled. There will be no adjournments of Hearings without exceptional circumstances. Applications to adjourn Hearings will follow the same procedure as adjournment requests for Court dates, as indicated above.

III. MOTIONS

A. Pre-Motion Conferences:

1. Prior to making or filing any motions, including non emergency Order to Show Cause applications, 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 resolution 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 client must be available to participate in the conference.

2. If the issue can be resolved during the conference call, an Order consistent with such resolution will be issued. If the issue cannot be resolved during the conference call, the Court will set a motion schedule for the motion.

3. There will be no oral arguments on motions or Order to Show Cause applications unless specifically indicated by the Court.

B. Submission of Motions:

1. Appearances of all Attorneys, Litigants, and Attorneys for the Child(ren) are required on all motions dates, unless otherwise indicated by the Court.

2. Motions are to be served and filed in conformity with C.P.L.R. §2214. In addition, the various branches of the motion, as delineated in the Notice of Motion or Order to Show Cause, are to be preceded by a number or letter which corresponds to a number or letter in the supporting affirmations and affidavits containing the numbered paragraphs dealing with the particular relief sought. All exhibits must be clearly tabbed.

3. No sur-reply affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.

4. Attorneys are directed to provide the Court with self-addressed, stamped envelopes with the submitted papers in order to facilitate delivery of the Court's decision.

5. Motions not consistent with these rules will be rejected and returned to Counsel.

C. Interim Partial or Full Settlement:

If all or part of a submitted motion is settled, a written Stipulation signed by all of the Attorneys and parties, together with a proposed Order with Notice of Settlement (on at least ten [10] days notice), or a signed Waiver of Settlement, shall be submitted with a copy to be conformed along with a self-addressed, stamped envelope. In addition, the forgoing 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, if any, remain to be decided. If the motion is resolved, in whole or part, on the record, Counsel shall submit a proposed Order regarding same together with a copy of the minutes of the proceeding. Alternatively, the parties may submit a written Stipulation signed by all of the Attorneys and parties, and same shall be "So Ordered."

IV. COMMUNICATION WITH CHAMBERS

In all communications with Chambers by letter, the title of the action, the docket and file number, the next Court date the matter is on, and full names and addresses of the Attorneys, Litigants, and Attorney for the Child(ren) shall be set forth, with copies simultaneously delivered to all Counsel. Ex-parte communications with Chambers, whether by telephone, fax or otherwise, are improper and will be disregarded.

Copies of correspondence between Counsel shall not be sent to the Court. Such copies if received by the Court shall be discarded and not placed in the Court's file.

The Court will not accept fax communications or submissions without prior permission.

V. APPLICATIONS FOR 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 sanction's application.

VI. MISCELLANEOUS

Attorneys who have appeared in matters before the Court are required to make all appearances until either the conclusion of the case or they are relieved by the Court. A discharge of an attorney by his/her client will not relieve the attorney from appearing in Court unless the attorney is formally relieved by the Court.

If a matter is settled out of Court, a written Stipulation of Settlement and Discontinuance signed by all of the Attorneys and parties, shall be submitted to the Court no later than 3:00 p.m. on the business day immediately preceding the scheduled Court date. Counsel must contact the Court to determine if any appearances will still be required.

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) is 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.

Orders may be picked up in room 209 or will be mailed to the respective parties.

Any and all ex-parte communications will be returned, unread, to the attorneys and/or litigants.

Settlements must be placed on the record as agreed. Any further changes will result in a recall.

While within the confines of the Courtroom, Counsel are directed to refrain from utilizing media, either electronic or otherwise, and are prohibited from using cell phones (except to check calendar dates), I-Pads, reading books, magazines, and newspapers.

This is an "open courtroom," with attendance at the discretion of the Judge. Potential witnesses are expressly prohibited from observing.