



# NEW YORK STATE UNIFIED COURT SYSTEM

Hon. C. Randall Hinrichs  
Suffolk County District Administrative Judge

Hon. John B. Collins, J.S.C.

## SUFFOLK COUNTY SUPREME COURT DEDICATED MATRIMONIAL PARTS

### RULES FOR ATTORNEYS AND SELF REPRESENTED LITIGANTS

#### ADJOURNMENTS

1. **On consent** All consent adjournment requests, if granted by the court, must be confirmed in writing and indicate the reason for the adjournment, the index number, appearance date and proposed adjourned date.
2. **No consent** All adjournment requests that are not on consent of the opposing party must be in writing and on notice to all parties.
3. **Law Guardian** When applicable, notice to or the consent of the law guardian must be obtained before an adjournment application will be considered.
4. **Engagement of counsel** Requests predicated upon engagement of counsel must be by affidavit or affirmation conforming with 22 NYCRR125.1(e) and must include:
  - (a) the basis for the priority to be afforded the other appearance;
  - (b) the name of the case in which the engagement is required, the nature of the proceeding, the court, and where known, the assigned jurist;
  - (c) the date such engagement was incurred and whether the other court was made aware of the court date for which the adjournment is sought.
5. **Trials**
  - a) Parties and counsel **must** appear on the scheduled date unless excused by the court. Consent adjournments will not be granted absent the express permission of the court.
  - b) If a case has been scheduled for trial at least two months in advance and an attorney scheduled to try the case is actually engaged on trial elsewhere, he or she must provide substitute trial counsel. If neither trial counsel nor substitute counsel is ready for trial on the scheduled date, the court may in its discretion impose sanctions (22 NYCRR 125.1(g)).
4. **Motions** Where the parties have stipulated to adjourn a motion, they must so advise the court prior to the return date. There shall be no more than three stipulated adjournments for an aggregate period of 60 days without prior permission of the court (22 NYCRR 202.8)(e).

## APPEARANCES

1. **Appearance in court** Except on return of motions, the appearance of both parties and counsel is **required** on all court dates unless waived by the court. Where the court has waived the absence of a party, he or she must be available by telephone.
2. **Arrival in court** Upon arriving in the courtroom, counsel and self represented litigants shall report to the court officer. If attending to other matters in the court complex, counsel shall advise the officer with specificity as to the part(s) to be attended.
4. **Writs of Habeas Corpus** On the return of a writ of *habeas corpus* involving custody or visitation disputes, the child(ren) must be brought to court unless their presence has been excused by the court or by agreement of all parties.

## COMMUNICATIONS WITH THE COURT

1. **Ex Parte** Neither counsel nor parties shall initiate *ex parte* communications with the court concerning substantive matters. Letters or fax transmissions sent to the court will not be considered unless there is an indication that a copy has been sent to all parties.
2. **Telephone conferences** Telephone conferences must be prearranged with individual chambers. The requesting party shall be responsible for setting up the conference.

## PRETRIAL MOTIONS

1. **Settled issues**
  - a) Prior to making a motion, counsel should attempt to resolve issues with opposing counsel if he or she deems it appropriate. In an attempt to resolve disputed issues, counsel may request a telephone conference with the court. Any pretrial issue resolved by telephone conference or otherwise must be memorialized by a written stipulation.
  - b) Upon settlement of a pending motion, counsel shall immediately notify chambers.
2. **Memoranda of Law** Where unique or novel issues of law are presented, counsel should submit memoranda of law in support of their respective positions.
3. **Oral argument** Oral argument of motions may be had upon prior arrangement and approval of the court.

## POST JUDGMENT APPLICATIONS

An application to the court for post judgment relief must be by formal motion.

1. **Service** Orders to show cause for post judgment relief shall not provide for service on the opposing party's prior attorney unless the supporting papers state that said attorney has authority to accept such service. Service shall be required on the opposing party in the same manner required to initiate a special proceeding.
2. **Custody/visitation issues** The moving papers must identify any previously appointed law guardian.

### **EX PARTE APPLICATIONS**

1. **Notification of application for temporary relief**  
On any application for *ex parte* relief, the movant must identify counsel for the opposing party, if any, and must include a sworn statement that counsel or the self represented litigant was notified of the date, time and place the application would be made, except where preservation of marital assets or child custody could be compromised by such notification.
2. **Continuation of *ex parte* relief** Where the consent of the opposing party cannot be obtained, oral applications to continue or vacate any *ex parte* relief contained in an order to show cause shall be made on the return date of the motion. All parties are required to appear for oral argument.
3. **Withdrawal of counsel** An attorney moving for permission to withdraw as counsel **must** advise the court whether or not there are *pendente lite* or other motions pending, and if a hearing or trial has been scheduled that would be delayed by the granting of the attorney's application.

### **PRELIMINARY CONFERENCES**

1. All preliminary conferences must be conducted within **45** days of the filing of the **request for judicial intervention (RJI)** (22 NYCRR 202.16 (f)). No adjournments will be granted beyond that time period except for **good cause** shown.
2. **Net Worth Affidavits**
  - a) Pursuant to 22 NYCRR 202.16 (f) (1) as amended effective May 2001, the parties are required ten (10) days prior to the conference date, to exchange net worth affidavits, attorney's retainer statements, all paycheck stubs for the current calendar year, the last paycheck stub for the immediate preceding calendar year, all W-2 wage and tax statements, State and Federal income tax returns for the past three (3) years, and financial account statements, etc.
  - b) Statements of net worth and supporting financial documents are to be filed with the court at the preliminary conference.
3. **Appearances** Appearance at the preliminary conference is mandatory for all parties and counsel (22 NYCRR 202.16 (f)). Failure to appear for a preliminary conference or any subsequent conference, unless excused by the court, may result in costs or sanctions being imposed against the defaulting party.

4. **Preliminary conference order** At the close of the preliminary conference, the parties shall stipulate, in writing or on the record, as to all resolved issues and set forth a schedule of discovery for all unresolved issues which the assigned justice will then “so order”. A date for trial shall be scheduled not later than **six months** from the date of the conference, unless the court determines that it is a complex case.
5. **Disclosure** All discovery proceedings must be completed and the **note of issue filed within six months from the commencement of the preliminary conference** unless otherwise shortened or extended by the court depending upon the circumstances of the case (22 NYCRR202.16 (f)).
6. **Compliance** Any party who fails to comply with a preliminary conference order requiring discovery may be subject to the penalties prescribed in CPLR § 3126.

### **APPOINTMENT OF NEUTRAL EXPERT WITNESSES**

On its own initiative or on consent of the parties, the court may appoint a neutral expert witness. The court in its discretion shall make a direction as to which part[ies] shall advance the expert witness' fee for production of the report and for testifying, subject to reallocation by the court upon application of either party.

- a) Where the parties stipulate to the appointment of a neutral expert, they may elect to be bound by the expert's opinion.
- b) Where the parties consent to the appointment of a neutral expert but have not elected to be bound by the opinion of the neutral expert, the stipulation must provide that the qualifications of the expert will not thereafter be challenged.
- c) In the discretion of the court, the expert's written report may be used to substitute for direct testimony at the trial (see: PC Order, Part 14).
- d) The expert reports shall be submitted under oath by the expert who shall be present and available for cross-examination (22 NYCRR 202.16 (g)).

### **TRIALS**

1. **Note of issue** A note of issue with certificate of readiness **must** be filed prior to a request for a trial date.
2. **Statement of proposed disposition** Statements of proposed disposition are required to be filed pursuant to 22 NYCRR 202.16(h).
3. **Confirmation of trial date** One day prior to any scheduled trial, counsel must call chambers of the assigned justice to confirm the court's availability for trial. Failure to be ready to proceed on a scheduled trial date may result in a dismissal of the cause of action.

4. **Expert witness reports** Counsel are reminded that pursuant to 22 NYCRR 202.16 (g) (2), all expert reports are to be exchanged and filed with the court sixty (60) days before the date set for trial. Reply reports, if any, shall be exchanged and filed with the court no later than thirty (30) days before said date. It is counsel's obligation, to ensure that expert witness are available to testify on the trial date. Failure to have experts or their reports available on the trial date may result in the preclusion of the expert's testimony and report.
5. **Trial exhibits** To the extent possible, all trial exhibits, whether stipulated to or contested, shall be pre-marked prior to the commencement of the trial.
6. **Marked pleadings** If grounds are to be tried, marked pleadings, in accordance with CPLR § 4012 are to be filed with the court.
7. **Witness lists** A witness list is to be filed with the court by each party.
8. **Jury trials** Where either party has timely served and filed a demand for a jury trial and the case is ready for trial:
  - (a) the assigned justice, depending on his or her availability, may elect to refer the case to the Supervising Justice of the Dedicated Matrimonial Parts, who upon consultation with the Calendar Control Part may refer the case for trial to a Supreme Court justice sitting in either Central Islip or Riverhead.
  - (b) Once a verdict has been rendered, should grounds be established, the parties must report as soon as practicable to the original assigned justice to attend to the prompt disposition of the remaining ancillary issues including equitable distribution, custody and support.
9. **Non jury trials** In instances where a non jury case is scheduled for trial and the assigned justice is not available to hear the case on the date scheduled, the assigned justice may refer the matter to the Supervising Justice of the Dedicated Matrimonial Parts for reassignment.
10. **Post trial submissions** Each counsel shall prepare and submit a post-trial Memorandum of Proposed Findings of Fact and Conclusions of Law. Legal arguments are to be supported by relevant case law and contain proper legal citations.

## SETTLEMENTS

1. Where a case has been settled prior to the trial date or any other court date, in lieu of appearing in court, chambers **must** be notified in writing in advance that a stipulation has been executed by both sides resolving all outstanding issues.
2. On any date that the case appears on the calendar and the parties are present, a stipulation of settlement may be placed on the record and "so ordered" by the court.
3. No case shall be marked as settled or disposed unless an oral stipulation has been placed on the record or written notification is submitted to chambers confirming that a stipulation of settlement has been executed by both sides.

4. **Judgment submissions calendar** At the time of settlement, the case will be adjourned to a judgment submission calendar to assure that the judgment and supporting documents are timely submitted.
5. **Submission of proposed judgments**
  - a) Proposed judgments must be submitted within 60 days of the date the case was marked settled by the court unless extended by the court for good cause. Counsel for the submitting party must notify chambers in writing when the proposed judgment has been filed with the clerk's office. If the proposed judgment has not been submitted, all parties and counsel shall appear on the judgment submission date. Requests for extensions must be in writing and supported by good cause.
  - b) Proposed judgment submissions rejected for noncompliance with the Rules of the Chief Judge or any other deficiency must be resubmitted to the court within thirty (30) days of the notice of rejection. A failure to comply may result in restoration of the case to the calendar for appearance by all parties. Requests for extensions must be in writing and supported by good cause.
6. **Outstanding motions** Motions pending at the time a case is marked settled by the court will be deemed withdrawn unless explicit provision is made for their continuance.

#### **APPLICATIONS TO RESTORE CASES TO THE CALENDAR**

An application to restore a case dismissed or marked off the calendar and deemed abandoned pursuant to CPLR 3404 **must** be by motion unless the party was granted leave to restore on letter notice.