

Local IAS Rules of Justice Stan L. Pritzker

Washington County Supreme Court
4th Judicial District
for Civil and Matrimonial Cases
383 State Route 4
Fort Edward, N.Y. 12828
(518) 746-2506

Please do NOT FAX without Court Approval

Court Attorney: **Ted M. Wilson, Esq.** (518) 746-2510 twilson@nycourts.gov
Court Clerk: **Tricia Robarge** (518) 746-2520 trobarga@nycourts.gov
Secretary: **Kim Ward** (518) 746-2506 kward@nycourts.gov

1. MOTIONS by Notice or by Order to Show Cause:

a. *General:* All motions, except in emergency circumstances, shall be **upon submission**, unless oral argument is requested and granted by the Court. Notice provisions shall comply with the CPLR 2214(b) and Court Rules promulgated thereunder. Please do not serve Notices of Motion without indicating the return date on the Notice. Blank Notices will not be accepted. In addition, please note on the Notice that the motion is, "Returnable upon Submission ONLY unless Oral Argument is Requested and Granted by the Court." Emergency matters will be heard promptly at times specifically arranged with Chambers. Motions and Orders to Show Cause will not be placed on the Court's calendar unless and until the required motion fee is paid to the County Clerk's Office.

b. *Orders to Show Cause:* Please contact Chambers directly to schedule emergency matters requiring a signed Order to Show Cause. Except where the law permits otherwise, requests for TRO's should be on notice to opposing counsel and the Children's Attorney, if applicable, except for rare circumstances. All TRO requests must comply with 22 NYCRR 202.7(f). Note special restrictions regarding TRO's and municipalities.

c. *Adjournments:* Adjournments of non-emergency motions are granted upon consent of opposing counsel, but if counsel refuses, the Court may grant an adjournment upon request even if opposed. Counsel should keep in mind the rules of civility. Motions must be adjourned to a specific date; general adjournments will not be permitted. Requests for adjournment of motions where opposing counsel does not consent should be made by conference call to the Court. An adjournment may be granted on Consent by the Court, Court Attorney or Secretary; however, a letter confirming same must be furnished by regular and electronic mail.

d. *Motions to Compel Discovery and Summary Judgement Motions:* Motions to resolve discovery disputes shall be accompanied by an affidavit of good faith attempt at resolution. Letters between counsel are fine, but there should be evidence of an actual conversation between counsel to attempt to resolve discovery disputes. Summary judgment motions must be timely made pursuant to CPLR §3212(a).

e. *Orders:* A proposed order **in duplicate** should accompany your motion papers. In any case, Orders based upon the Court's Decision must be submitted no later than 30 days after said Decision is rendered, whether the decision was oral or written. All orders must be submitted with an indication that the order has been sent to all opposing counsel or the self-represented litigant. Orders will not be signed without proof of opportunity of opposing counsel or self-represented litigant to review same. An order/decision should be rendered by the Court within 60 days after final submission. **If you fail to receive an order back from the Court within that time frame, please contact the Court directly.** Sometimes we lose track of a case and your contact would be greatly appreciated.

2. Contested Matrimonial Cases:

a. *Preliminary Conferences, additional Conferences and Mediation :* 22 NYCRR 202.12(b) requires that a Preliminary Conference be held within 45 days of the filing of the RJI for a matrimonial action. Remember this time frame when requesting adjournments. Financial Affidavits (236B) and Retainer Agreements **MUST** be submitted to Chambers at least 3 business days prior to the Preliminary Conference. We strongly encourage parties to settle matrimonial cases and are always available for additional conferencing. **We also have a mediation program that is available without cost to the litigants for custody disputes.**

b. *Pre-Trial Conferences:* Statements of Proposed Disposition must be submitted to the Court at least three business days prior to the Pre-Trial Conference.

c. *Stipulations:* If a case is resolved by a written stipulation of the parties, the matter **WILL NOT** be taken off the calendar until the Court receives a signed copy of the stipulation.

d. *Prior Family Court Orders:* When Judgments of Divorce provide for the full continuation of Family Court orders(custody/visitation or child support), the Judgment must reference the Docket number(s) and Date(s) of Family Court orders, in separate decretal paragraphs and have copies of the orders attached.

e. *Defaults:* When an oral default is put on the record, the transcript of the default must be filed in the County Clerk's office with the record; however, **DO NOT**

attach the default transcript to the Judgment of Divorce.

f. *Necessary Paperwork:* When a stipulation of settlement is placed on the record or if the case is settled by written stipulation of the parties, a transcript of the oral stipulation or the written stipulation MUST be attached to the judgment of divorce. Where the case has been settled by oral stipulation, the Affidavit of Appearance and Adoption of Oral Stipulation MUST ALSO be attached to the Judgment.

g. *Decisions by Court:* When the court has rendered a written decision or bench decision, the written decision or transcript of the bench decision MUST be attached to the Findings of Fact and Conclusions of Law; and, directives of the Court must be detailed in decretal paragraphs in the Judgment of Divorce.

h. *Separate Decretal Paragraphs:* When a divorce is settled by stipulation which is incorporated into the Judgment of Divorce, the decretal paragraphs need not specify the provisions concerning equitable distribution. However, separate decretal paragraphs must specify provisions regarding custody, visitation, child support and maintenance.

i. *UCS-111 Forms:* 22 NYCRR 202.50(c) requires that judgments submitted to the court shall be accompanied by a completed form.

j. *Effective date of Child Support and/or maintenance in judgments and/or orders:* Every proposed judgment of divorce or temporary order containing an order of support or maintenance MUST specify the effective date. If the parties entered into an oral stipulation placed on the record in court and the stipulation does not specify the effective date of any child support and/or maintenance orders, the effective date to be inserted in the proposed judgment or order will be the date the stipulation was placed on the record. If the matter is resolved by a written stipulation and there is no date specified in the stipulation, the effective date to be inserted in the proposed judgment or order will be effective the date the stipulation is fully signed by both parties. The best practice would be to specify the effective date in any stipulation, written or oral. If the child support and/or maintenance order is by decision of the Court, the decision will indicate the effective date and this date must be inserted in the proposed judgment. If orders are payable through the Support Enforcement Unit and the effective date is not specified in the Judgment, the Support Enforcement Unit will adhere to the dates specified in this paragraph.

k. *Direct Pay orders or through Support Enforcement Unit:* Any proposed judgment of divorce should state whether child support is by way of direct pay or through the Support Enforcement Unit. If the order is by direct pay, counsel must file the necessary form with the State Case Registry in Albany, and provide the Court with a copy of the form and letter of filing. If payments are to be made through the Support Enforcement Unit, the proposed judgment must contain a provision directing the filing of a copy of the judgment with the Support Enforcement Unit.

l. *Social Security Numbers*: Every proposed Judgment of Divorce must contain the social security numbers of parties. In addition, pursuant to DRL 240-b, any proposed judgment with an order for child support, must contain the social security numbers of the minor children.

m. *Temporary Orders of Protection*: If one form of relief requested in an Order to Show Cause is an order of protection PRIOR to the return date of the Order to Show Cause, counsel should have the client available at the time the Court signs the Order To Show Cause to present testimony on the issue. If the Order to Show Cause seeks an order of protection upon the return date of the Order to Show Cause, counsel should have the client available on the return date to present testimony on the issue. As a matter of course, mutual orders of protection will generally not be granted. If there are any criminal orders of protection involving similar alleged conduct, the Court will need to be so advised.

n. *Opt-out Agreements*: Please make sure that child support Opt-Out agreements conform to DRL Section 240(h).

3. Other Civil Matters:

a. *Conferences*: Pretrial conferences will be scheduled upon the Court's receipt of an RJI and/or calendar Note of Issue. Pleadings and a brief summary of the case in letter form are required in advance of the conference. Any request for an adjournment shall be made to the Judge's secretary or Court Attorney and confirmation of all adjournments and notice of rescheduled dates must be made in writing and e-mail to all parties and the Court. The Court takes settlement conferences very seriously and may request that insurance adjusters are in attendance.

b. *Settling Policy Limit Cases*: If a case with a value in excess of the policy limits is being settled for available insurance coverage be prepared to submit an affidavit from the insured detailing their knowledge of insurance coverage, an affidavit from counsel offering the policy limits detailing their activities in ascertaining the existence of all available insurance coverage, and an affidavit from a principal with the insurance company swearing they have no knowledge of any other insurance coverage.

c. *CPLR 306-b*: Where service of the Summons with Notice or Summons and Complaint has not been effected within 120 days of filing with the County Clerk's Office, you must obtain the Court's permission to extend the time for service for "good cause shown". This can be done on the papers without the necessity of counsel's appearance, on ex parte notice of motion.

4. Trials:

- a. *Adjournments*: Granted rarely and only by permission of the Judge.
- b. *Expert Disclosure and Lay Witness Disclosure*: Expert disclosure should be made simultaneously, 20 days prior to jury selection. Motions opposing the disclosure shall be filed 10 days prior to jury selection.
- c. *Marked Pleadings and list of witnesses (both expert and lay)*: These should be sent to the Court 10 days in advance of jury selection. [Note exception in medical malpractice cases for expert name disclosure CPLR Section 3101(d)(1)(ii).]
- d. *Motions in limine*: These should be submitted as soon as practicable prior to jury selection and will be heard thereafter as scheduled by the Court. However, if possible, the Court requests that such motions be made 10 days before jury selection.
- e. *Proposed Requests to Charge and Verdict Sheets*: Proposed requests to charge and verdict sheets shall be submitted 10 days before jury selection. The Court requires that these be furnished in hard copy **and** by e-mail with the requests and verdict sheet attached. Please use Word Perfect Format. Request to Charge should be made by PJI Number together with the PJI language. If additional language is requested, same should be conspicuously noted together with cited supporting authority. The requests may be supplemented upon the conclusion of proof. A Charge Conference by informal discussion, to be held at or near close of proof with results put on the record, is available upon request.
- f. *Pre-trial memoranda*: Memorandum for matrimonial and other non-jury trials to be served and submitted to the Court 10 days before the first day of trial.
- g. *Exhibits*: Prior to the commencement of proof, all trial exhibits shall be marked for identification.

5. Miscellaneous: If you have any questions or concerns, please be encouraged to contact my Court Attorney, Ted M. Wilson, Esq. or my secretary, Mrs. Kim Ward, at the phone numbers or e-mail addresses listed on the top of page one. Thank you.