

HON. MARK A. MONTOUR
Angelo A. DelSignore Civic Building
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Niagara Falls, New York 14302
Phone: 371-4015 Fax: 371-4043

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|------------------------|-----------------------|---------------------|
| Law Clerk: | Michael Amodeo | 716-371-4017 |
| Secretary: | Carrie Baggett | 716-371-4015 |
| Court Clerk: | Patricia Hall | 716-371-4005 |
| Court Reporter: | Debbie Zito | 716-371-4037 |

SPECIAL TERM MOTIONS

SPECIAL TERM MOTIONS ARE CALLED BY THE ORDER IN WHICH ATTORNEYS CHECK IN. KINDLY REPORT WITH THE COURT CLERK IMMEDIATELY UPON ARRIVAL.

NOTE: Motions, Cross-Motions and Orders to Show Cause will not be scheduled until and unless Chambers receives a paid, stamped Special Term Note of Issue.

CIVIL MOTIONS

All moving papers, answering papers, reply affidavits, memoranda and paid Special Term Notes of Issue, are to be received in Chambers by 3:00 p.m. the Wednesday before the return date, notwithstanding CPLR 2214(b), any papers submitted after 3:00 p.m. on Wednesday may result in an adjournment, at the Court's discretion. Oral argument required unless written consent by all attorneys to submit papers is received or the Court directs otherwise.

Motions to resolve discovery disputes shall be accompanied by an affidavit of good faith attempt at resolution. **Letters between counsel are insufficient.** There must have been a conversation between counsel to attempt to resolve discovery disputes.

Summary judgment motions must be timely made pursuant to CPLR §3212(a). Original papers with Affidavits of Service to be supplied to the Court.

TROs handled on a case-by-case basis. TROs must be on notice to other attorney if known or where a government entity is involved. Orders to Show Cause/TROs on a case assigned to another judge will be signed only upon prior written approval of IAS judge or his/her law clerk.

Adjournments: Motions cannot be adjourned generally. If all attorneys consent to an adjournment, then the motion can be adjourned to a mutually agreed upon special term date. The attorney requesting an adjournment will send a confirming letter with the new return date to all attorneys and the Court. If one of the attorneys does not consent to the adjournment, the Court will decide whether to adjourn the motion on a case-by-case basis. Any request for adjournment must be made at least twenty-four (24) hours prior to return date. Further, no more than three adjournments will be granted. After three adjournments, the motion may be dismissed by the Court.

MATRIMONIAL MOTIONS

All moving papers, answering papers, reply affidavits, memoranda and paid Special Term Notes of Issue, are to be received in Chambers by 3:00 p.m. the Monday before the return date, notwithstanding CPLR 2214(b), any papers submitted after 3:00 p.m. on Monday may result in an adjournment, at the Court's discretion. Oral argument required unless written consent by all attorneys to submit papers is received or the Court directs otherwise.

However, initial motions in matrimonial actions may be returnable at the preliminary conference, rather than a special term date. In such case, the papers must be received in Chambers **at least seventy-two (72) hours prior to the return date.** Original papers **with affidavits of service** to be supplied to the Court. **Any request for financial relief will not be considered unless a 236(b) Financial Affidavit is attached to the motion.**

TROs rarely granted if not mutual; if granted, a quick return date is required and only where assets are in jeopardy or in extreme circumstances, supported by objective evidence (police or medical report). TROs on notice to other attorney, if known. Orders to Show Cause/TROs on a case assigned to another judge will be signed only upon prior approval of IAS judge or his/her law clerk.

Adjournments: Motions cannot be adjourned generally. If all attorneys consent to an adjournment, then the motion can be adjourned to a mutually agreed upon special term date. The attorney requesting an adjournment will send a confirming letter with the new return date to all attorneys and the Court. If one of the attorneys does not consent to the adjournment, the Court will decide whether to adjourn the motion on a case-by-case basis. Any request for adjournment must be made at least twenty-four (24) hours prior to return date. Further, no more than three adjournments will be granted. After three adjournments, the motion may be dismissed by the Court.

LATE SUBMISSIONS

All motion papers, including cross-motions, answering affidavits, and reply affidavits must be submitted to the Court within the time periods prescribed herein and the CPLR, unless the Court directs otherwise. **Failure to comply with the filing deadline will result either an adjournment of the motion or refusal by the Court to consider the untimely submission.**

ORDERS

Must be submitted within thirty (30) days. There must be an indication that the order has been sent to all opposing counsel or *pro se* litigant and that no objection has been received. Orders will not be signed unless opposing counsel has had an opportunity to review for at least seven (7) days. However, if no objections are received after ten (10) days, the Order will be signed without further delay. **Facsimiles (orders, subpoenas, etc.) will not be signed as originals.**

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CONFERENCES

CIVIL

Preliminary conferences will be scheduled within 45 days of the filing of the RJI and are mandatory. All conferences before the IAS judge or designated Court attorney. No pleadings or other papers need be submitted, but it will be appreciated if a synopsis of the case's facts and procedural/settlement posture is sent to the court by each party in advance of the preliminary conference.

Adjournments: Will be granted only with consent of all attorneys **and** assignment by court staff of a new date for the conference. No general adjournments will be granted and no adjournments will be granted if beyond the 45 day requirement.

MATRIMONIAL

Preliminary conferences will be scheduled within 45 days of the filing of the RJI and are mandatory. Clients must be present. **At least one (1) week prior to the preliminary conference**, the Court must receive the following:

Plaintiff's counsel will be asked to produce:

- A letter stating what issues are resolved and unresolved;
- A 236(b) financial affidavit;
- A copy of the current year W-2;
- A copy of the signed retainer agreement;
- A copy of the date-stamped summons;
- A copy of the affidavit of service;

Defendant's counsel will be asked to produce:

- A letter stating what issues are resolved and unresolved;
- A 236(b) financial affidavit;
- A copy of the current year W-2;
- A copy of the signed retainer agreement.

Adjournments: Granted only by consent of the Court, but never beyond the 45 day requirement. **No adjournments will be granted on the date of the scheduled conference, except for extreme emergency and by consent of the Judge.**

TRIALS and PREFERENCES

CIVIL

Adjournment granted only by the Judge. **Jury selection begins at 9:30 a.m. on Tuesday** with trial to commence on Wednesday.

List of witnesses, statement of the case to the jury, proposed jury charge and verdict sheets required **one (1) week prior to jury selection**. The charge conference will be held following the completion of proof, unless otherwise directed by the Court.

Motions in limine returnable at least **one (1) week prior to jury selection** at 9:30 a.m.

Any motions regarding the adequacy of expert disclosure are to be made within ten (10) days of receipt of such disclosure. Deadline on expert disclosure at least thirty (30) days prior to commencement of trial, unless otherwise ordered by the Court.

Special Requirement on Policy Limits 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 insureds 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.

MATRIMONIAL

Referred to law clerk to hear and report on divorces on stipulation, contested economics, post-divorce arrears and post-divorce modification. Judgments and findings of fact should be submitted on notice to opposing counsel within four (4) weeks of prove-up or decision. If no objections to final papers are received after ten (10) days, submitted papers and/or orders will be signed without further delay.