

HON. TIMOTHY J. WALKER
Acting Supreme Court Justice
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MOTIONS: Every Monday at 9:30 a.m.

Attorneys shall contact **John Garbo** prior to scheduling same.

1. Courtesy copies of all moving papers, answering papers, memoranda and special term notes of issue must be **received** by chambers at least five (5) days prior to the return date, and before **2:00 p.m.** Reply papers and memoranda, if any, must be **received** at least one (1) day prior to the return date, and before **2:00 p.m.**, and shall not re-iterate previously filed pleadings. Cross-motions shall be governed by the CPLR, and the Court requires strict compliance with CPLR §2214(b). **Only papers served in accordance with the provisions of these rules will be read in connection with any such motion or cross-motion.** Except as noted below as to Orders to Show Cause, the originals of all papers shall be filed with the Office of the Clerk of the County in which the matter is commenced/pending. Oral argument is expected on all cases, unless a) the motion is known in advance to be uncontested or b) a letter requesting the motion be decided on the papers is received by the Court prior to the original return date. Discovery motions may be subject to a conference with the Law Clerk prior to argument on the return date. Discovery and motions for a Bill of Particulars must be accompanied by the affirmation of good faith required by 22 NYCRR § 202.7. Original papers must be supplied to Chambers on an Order to Show Cause; on all other motions copies are acceptable. **Counsel shall refrain from citing case law in affidavits and/or affirmations.**

2. Special Term Motions are called in the order in which attorneys check in. Kindly report with the Court Clerk immediately upon arrival.

3. **Motions, cross-motions and orders to show cause will not be scheduled until and unless chambers receives a paid, stamped Request For Judicial Intervention and/or a special term Note of Issue showing the original papers were filed with the office of the clerk of the county in which the matter is commenced/pending.**

Orders: Must be submitted within ten (10) days with verification that the order has been served upon all opposing counsel (or pro se litigants), and that no objection has been received within three (3) days of service. Orders will not be signed without verification of opportunity of opposing counsel to review.

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CONFERENCES:

Civil: Preliminary and Pre-trial conferences are automatically scheduled upon Court's receipt of filed RJI or calendar note of issue. Otherwise, a preliminary conference may be scheduled upon request. Prior to the initial conference, counsel shall provide the Court with copies of all pleadings, bills of particulars and a one (1) paragraph summary of the case. At the conference, a scheduling order will be issued. Counsel shall bring calendars, including trial availability, to all conferences. Conferences shall take place with the Law Clerk (or the Court, as matters dictate).

TRIALS AND REFERENCES:

Civil: The Court adheres strictly to trial schedules. Marked pleadings, requests to charge, witness lists, proposed verdict sheets and papers for motion in limine required two (2) weeks prior to commencement of trial. Motions in Limine shall be decided prior to commencement of trial. A conference with Court will be held upon completion of jury selection. A final charging conference will be held prior to summations. Deadline on expert disclosure, without good cause shown, is thirty (30) days before the scheduled commencement date of jury selection.

MORTGAGE FORECLOSURES:

1. The caption of all Orders Appointing Referee to Compute and proposed Judgments of Foreclosure shall include the address of the property being foreclosed upon in the caption;
2. All exhibits shall be separately tabbed for easy location by the Court, including the bill of costs, the note and mortgage, and any written assignments thereof;
3. In order to receive an award of attorneys fees, the submitted copy of the mortgage shall have highlighted the language allegedly entitling the party to such an award;
4. 90-Day Pre-Foreclosure Notice - Enforcement. For actions requiring a 90-day pre-foreclosure notice pursuant to RPAPL § 1304:
 - (a) Plaintiff shall file proof of service of such notice and a true copy of such notice and attachments simultaneous with the filing of a summons and complaint. Failure to comply with this section shall result in the Clerk refusing to accept any papers; and
 - (b) Plaintiff shall bring a copy of the specialized request for judicial intervention required by Uniform Civil Rule § 202.12-a(b) (RJI), the 90-day pre-foreclosure notice, and proof of service of the 90-day pre-foreclosure notice to any settlement conference. Failure to comply with this section shall result in the dismissal of the action.
5. Documentation to Bring to Settlement Conference.
 - (a) Defendant homeowners are strongly encouraged to bring copies of loan documents (Note and Mortgage); closing documents (HUD-1 Settlement Statement, all documents disclosing broker fees and other closing costs); home improvement/repair contracts; list of payments and proof of payments made.

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towards mortgage, real estate taxes, and homeowner's insurance. Defendants also are encouraged to bring copies of pay stubs and/or other documentation of income or benefits received. Defendants may not be prohibited from proceeding with the conference if they do not have documents because they were never provided, are missing, or are lost.

- (b) Plaintiff shall bring the entire loan file, including the Note and Mortgage, any allonge to the Note, and subsequent assignments; copies of all loan applications, including those completed by the borrower and the lender's final copy; copies of all Good Faith Estimates and Truth in Lending disclosures; the HUD-1 Settlement Statement; a detailed payment history; and explanation of all charges; and a reinstatement figure including a breakdown of all fees, costs and other charges that are allegedly due and owing.
 - (c) The Court may adjourn the settlement conference if Plaintiff fails to bring the entire loan file to the conference.
6. The Court will not consider or decide any pending (or new) motions until after the settlement conference process is concluded.
 7. At the initial settlement conference, if the Defendant has not filed a written answer, the Court may consider a request by Defendant to submit a late answer.
 8. The Court will have the discretion to calendar a follow-up conference with the parties to track and encourage any potential resolution.
 9. Adjournment of a settlement conference shall be granted for good cause shown by any party.
 10. The Court shall adjourn the first settlement conference if the Defendant homeowner is seeking an attorney and/or if the Court appoints counsel pursuant to CPLR § 1102(a). Subsequent adjournments shall be at the discretion of the Court.
 11. A representative of Plaintiff (with authority) shall be available by telephone and shall be up to speed on the file.
 12. Plaintiff's counsel shall have conferred with a representative of Plaintiff (with authority and up to speed on the file) prior to the initial conference (and any subsequent conference scheduled by the Court).
 13. Failure to comply with this section may result in the dismissal of the action.

GENERAL RULES:

Adjournments:

1. No same day adjournments shall be permitted, except in extraordinary circumstances and only upon consent of the Court.

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2. Motions shall not be adjourned generally. The first and second adjournments may be obtained without Court permission, on consent of all counsel, by informing the Court at least twenty-four (24) hours prior to the return date. **Letters confirming the adjournment shall be provided to all counsel and the Court.**
3. Adjournments of conferences shall be granted only with consent of all attorneys, but remain subject to Court approval.

TROs:

Issued on a case-by-case basis. TROs shall be on notice to opposing counsel, if known. TROs in cases assigned to another Judge will be granted only upon approval of that Judge or his/her Law Clerk.

Discontinuance:

In any discontinued action, the attorney for the defendant shall file a stipulation or statement of discontinuance with the appropriate County Clerk within twenty (20) days of such discontinuance and shall provide the Court with a date-stamped copy of same. If the action has been noticed for judicial activity within twenty (20) days of such discontinuance, the stipulation or statement shall be filed before the date scheduled for such activity.