

HON. LAWRENCE H. ECKER
Supreme Court of the State of New York
Orange County Government Center
285 Main Street
Goshen, New York 10924
Tel. (845) 291-3126
FAX (845) 291-2105

Part Rules

Effective February 4, 2011
These Rules are subject to change

Justice Ecker's Staff

David L. Steinberg, Principal Court Attorney
(845) 291-3104

David N. Glanzman, Assistant Law Clerk
(845) 291-3126

James Charette, Senior Court Clerk (Part Clerk)
(845) 291-3132

I. COMMUNICATIONS WITH THE COURT

A. Correspondence: Correspondence to the Court shall, without exception, be copied to all adversary counsel and self-represented parties. Correspondence between counsel and/or self-represented parties shall not be copied to the Court unless there is some specific judicial purpose to be served by transmitting copies to the Court.

B. Telephone Calls: Telephone calls to the Court staff are permitted only in necessary or emergency situations requiring immediate attention that cannot otherwise be attained by correspondence. Counsel should contact the Court's Principal Court Attorney or Assistant Law Clerk for advice concerning any issues or problems not addressed herein, or when the Court's intervention may be helpful in facilitating settlement of the matter.

C. Fax transmissions: The Court does not accept motion papers or other papers of any kind by fax transmission unless otherwise requested or approved by the Court in advance in a particular case. Copies of letters requesting or confirming an adjournment of a motion or conference may be sent to the Court by fax. However, the original of all correspondence must be mailed to the Part Clerk.

II. CALENDAR CALL & CONFERENCES

A. General Rules: The Court shall call its calendar in Courtroom 2 at 9:30 a.m. or as soon thereafter as possible. Counsel and self-represented parties are expected to appear for all court

appearances on time and must be fully familiar with the action on which they appear. Counsel must be authorized to discuss all factual and legal issues presented by the litigation, and settlement demands or offers. Represented parties need not appear for conferences unless directed to do so by the Court. However, counsel must appear with their clients for all conferences in matrimonial actions, unless such appearances are dispensed with by the Court on prior request on notice to the adversary and any attorneys for children.

B. Preliminary Conference: The Court will schedule a Preliminary Conference within 45 days after a Request for Judicial Intervention (RJI) has been filed on a matter. The Part Clerk will forward to the party filing the RJI a letter setting forth the date on which the Preliminary Conference will be conducted, and directing that the recipient advise all other parties of the Preliminary Conference date.

At the Preliminary Conference, the Court will issue a Preliminary Conference Stipulation and Order (PCSO) which shall include the date by which all disclosure must be completed, and the dates for a Compliance Conference and a Trial Readiness Conference. A form stipulation and order shall be provided to the parties which shall establish a timetable for discovery within parameters set forth by the Court after determination whether a matter should be designated a “standard” or complex” case. All counsel and pro se litigants are expected to take most seriously the Court’s discovery schedule and deadlines, and non-compliance shall only be excused if explained by extenuating circumstances. No modifications are permitted except by order of the Court.

Counsel are generally referred to Uniform Rule 202.12(c) for the conduct of the Preliminary Conference and the matters to be considered. Counsel in medical, dental and podiatric malpractice actions are referred to Uniform Rule 202.56(b) and counsel in matrimonial actions are referred to Uniform Rule 202.16 and D.R.L. § 236(B)(4) for other specific requirements in such cases.

C. Compliance Conference: The Court shall conduct a Compliance Conference approximately two weeks after the date by which disclosure was to be completed as directed in the PCSO. At the Compliance Conference, the Court will ensure that discovery is proceeding as scheduled, and be informed regarding settlement discussions.

D. Trial Readiness Conference: The Court shall conduct a Trial Readiness Conference approximately 30 days after the Compliance Conference. Counsel attending a Trial Readiness Conference must be fully familiar with the action and authorized to discuss all factual and legal issues presented by the litigation, settlement demands or offers, witness scheduling, and trial procedure – including for example, whether any party or witness will require a translator or

accommodation for a physical challenge. Counsel must also be authorized to enter into settlements on terms agreeable to the parties and to the Court. The Court will explore limitation of issues for trial.

If the matter is ready for trial and a note of issue has not been filed, the Court shall direct a note of issue be filed within 20 days.

E. Pre-Selection Conference: A Pre-Selection Conference with all counsel and self-represented parties shall be conducted on the Monday of the week preceding the week during which the trial date is scheduled. On or before the Pre-Selection Conference, counsel and self-represented parties shall provide the Court and opposing counsel or self-represented party with a Trial Notebook, consisting of a binder containing the following:

- 1) Marked pleadings in accordance with C.P.L.R. Rule 4012, including copies of any exhibits incorporated by reference in the pleadings.
- (2) A list of probable trial witnesses;
- (3) Marked copies of all documentary or photographic evidence, including but not limited to accident reports, medical records, and lost income records which the party expects to offer at trial, but excluding previously exchanged transcripts of examinations before trial;
- (4) Memoranda of law concerning any procedural, evidentiary, or other legal issue which the Court may need to determine;
- (5) Requests to charge. A complete list of requested charges, drawn from the Pattern Jury Instructions (PJI), must be submitted; a list of the PJI numbers of all charges requested is sufficient. However, if deviations from or additions to the PJI are requested, the full text of such requests must be submitted, together with any supporting legal precedents. In addition, such proposals shall be submitted in a format convertible to Word Perfect and submitted to the Court's principal court attorney at dsteinberg@courts.state.ny.us.
- (6) A proposed verdict sheet, jointly prepared by all parties, typewritten and in final form for presentation to the jury. If agreement cannot be reached prior to the Pre-Selection Conference, each party shall present a proposed verdict sheet which shall be served upon all the parties. In addition, the proposed verdict sheet(s) shall be submitted in a format convertible to Word Perfect and emailed to the Court's Principal Court Attorney at dsteinberg@courts.state.ny.us.

Failure to submit a complete Trial Notebook on or before the Pre-Selection Conference date, or to establish a reasonable excuse for such failure, may constitute grounds for a motion to preclude evidence and/or to strike pleadings.

F. Adjournment of Conferences: An application to adjourn a conference must be made in writing or by fax actually received by the Court at least twenty-four (24) hours in advance of the scheduled conference, and must set forth: 1) good cause why an adjournment is sought, 2) whether the adversary party(ies) consent(s) or object(s) to the application, and 3) may, at the option of the sender, suggest an approximate time period or an exact date for which the adjournment is sought. All such communications must be copied to all counsel and self- represented parties.

(1) On Consent - After telephone approval by the Part Clerk, a conference may be adjourned on consent.

(2) Opposed - If your adversary (ies) will not consent to an adjournment, you should fax a short letter request to the Court with a copy to all interested parties. The opposing counsel or self- represented party shall succinctly provide their reasons for objecting in a reply fax. No further communication will be permitted.

III. MOTION PRACTICE

A. General Rules: 1. Written applications by Notice of Motion may be made returnable at 9:30 a.m. on any Monday the Court is in session. During weeks in which Monday is a court holiday, written motions may be made returnable on Tuesday.

2. The return date for an Order to Show Cause shall be determined by the Court at the time papers are submitted for consideration and executed.

3. Orders to Show Cause must include the submitting attorney's fax number.

4. There shall be no oral argument heard on any motions or Orders to Show Cause unless directed by the Court.

5. Except by permission of the Court otherwise, all motion papers and Orders to Show Cause must be typewritten, double-spaced, securely bound and entirely legible. All exhibits must be legible and labeled with external tab markings.

6. Use official citations.

7. Deposition transcripts included as exhibits must be single, front-faced pages only.

8. Courtesy copies are not to be submitted, except for motions in limine.

B. Orders to Show Cause - Temporary Restraining Orders: Unless there are extremely unusual circumstances in which significant prejudice will ensue as set forth in a supporting affidavit, opposing counsel shall be advised by telephone or fax that an Order to Show Cause containing a Temporary Restraining Order is being presented to the Court. If there has been no appearance by opposing counsel, the adverse party shall be provided with notice as provided by Uniform Rule 202.7(f).

C. Summary Judgment Motions: All summary judgment motions must be made within sixty (60) days of filing of the Note of Issue.

D. Adjournment of Motion:

(1) On consent - Upon consent of all counsel and self-represented parties, the Court may grant an adjournment of a motion or Order to Show Cause; however, no more than three (3) adjournments of any single motion or cross-motion will be permitted. The party seeking the adjournment must obtain the consent of adversary parties and notify the Court's Principal Court Attorney of the requested adjourned date at least twenty four (24) hours before the return date.

(2) Opposed - If your adversary will not consent to an adjournment, you should fax a short letter request to the Court with a copy to all counsel or self-represented parties. The opposing counsel or self-represented party shall succinctly provide their reasons for objecting in a reply fax. No further communication will be permitted.

(3) Motion adjournments should be confirmed in writing to the Court and all adversary parties.

E. Discovery related Motions: In lieu of discovery motion practice, it is the policy of the Court to make itself and its staff available to resolve any disputes related to pretrial discovery. Therefore, unless authorized by the Court, no discovery motion shall be made by any party. Instead, if a dispute arises which relates to pretrial discovery, counsel for the aggrieved party or the aggrieved self-represented party shall immediately seek a telephone conference with the Court's Principal Court Attorney. If the dispute cannot be resolved with his assistance, a conference shall be promptly scheduled.

F. Motions in limine: Written motions for the Court's consideration in limine in any matter must be made returnable on no less than seven (7) days notice to adversary counsel and/or self-represented parties, and made returnable on the Monday of the week prior to the week the trial date is scheduled.

IV. DECISIONS AND ORDERS

(1) All orders or judgments, including counter-orders and judgments, submitted for signature on notice will be returned unsigned unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with Uniform Rule 202.48 have been included.

(2) Do not fax proposed orders or judgments.

(3) The parties are responsible to obtain copies of all written Orders and Decisions. Courtesy copies will be furnished only when Chambers are provided with a stamped, self-addressed envelope.

V. MATRIMONIAL ACTIONS

1. Counsel shall be familiar with and comply with the provisions of Uniform Rule 202.16. Prior to the preliminary conference, the parties shall file and exchange those documents set forth in Uniform Rule 202.16 (f)(1), including net worth statements, paycheck stubs, W-2 statements, tax returns and statements of accounts.

2. Counsel should inform their clients of the automatic orders created by DRL Section 236 Part B (2)(b) as soon as the attorney-client relationship is formed.

3. Parties shall appear at all matrimonial conferences unless otherwise directed by the Court.

4. Matrimonial Pendente Lite Motions: There shall be appearances by both parties and counsel on the return date of all pendente lite motions. The Court shall conduct either a preliminary conference or conference on the motion, as appropriate. In the event a Bench Decision is issued on the motion, a copy of the transcript will be ordered by the Court, the cost of which shall be shared by the parties unless otherwise ordered.

5. In matrimonial actions, updated net worth statements (with the latest available supporting documents, such as income tax returns, W-2's, brokerage statements, and retirement plan statements), statements of proposed disposition as required by Uniform Rule 202.16(h), and any forensic reports, appraisals and evaluations shall be provided in the Trial Notebook filed no later than ten (10) days prior to trial.

VI. SETTLED AND DISCONTINUED CASES

Counsel shall immediately notify the Court of a case disposition. Following the initial notification, counsel shall submit a copy of the stipulation of discontinuance to chambers so that the matter may be marked off the calendar.

VII. SUMMARY JURY TRIAL

A summary jury trial ("SJT") is a one-day or two-day proceeding that combines the flexibility and cost-effectiveness of arbitration with the structure of a conventional trial. The rules of evidence are relaxed but not eliminated. The trial is conducted in accordance with a comprehensive Pre-Trial Order in which the jury decides issues of fact and renders a binding verdict just as a jury would in a traditional trial.

Upon request, the Court will provide the Rules Governing Summary Jury Trials and a Proposed Waiver.