



New York State Unified Court System

Rules

Part & Title:

- 100
Judicial Conduct
- 101
Advisory Committee
on Judicial Ethics
- 102
Reimb. of Travel in
Connection with
Judicial Duties
- 103
Admin. Rules and
Orders Effective
4/1/78
- 104
Retention &
Disposition of Court
Records
- 105
Expedited Crim.
Appeal of an Order
Reducing & Indict. or
Dismissing & Indict.
& Direct. the Filing
of...
- 106
Elect. Court
Appearances
- 107
Salary Sched. for
Nonjudicial Officers &
Emp. of UCS
- 108
Format of Transcripts
& Rates of Pay...
- 109
Attendance at
Hearings to
Determine Mental
Condition...
- 110
Procedure Under CPL
330.20
- 111
Procedure Under CPL
Article 730
- 112
Rules of Chief Admin.
Pursuant to CPLR
Rules 5529 & 9703
- 113
Procedure to Eval.
Fitness of Judges or
Justices Who Become
III
- 114
[Repealed]
- 115
Caseload Activity

Rules of the Chief Administrative Judge

PART 130. Costs And Sanctions

SUBPART 130-1. Awards Of Costs And Imposition Of Financial Sanctions For Frivolous Conduct In Civil Litigation

SUBPART 130-2. Imposition Of Financial Sanctions Or Costs For Unjustified Failure To Attend A Scheduled Court Appearance

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- 130.1 [\[Renumbered\]](#)
- 130-1.1 [Costs; sanctions](#)
- 130-1.1a [Signing of papers](#)
- 130-1.2 [Order awarding costs or imposing sanctions](#)
- 130-1.3 [Payment of sanctions](#)
- 130-1.4 [Application to officers other than judges](#)
- 130-1.5 [Exception](#)
- 130-2.1 [Costs; sanctions](#)
- 130-2.2 [Order imposing sanctions and costs](#)
- 130-2.3 [Payment of sanctions](#)
- 130-2.4 [Application to officers other than judges](#)

Section 130.1 [Renumbered]

Historical Note
Sec. filed July 14, 1986; renum. 132.1, filed Dec. 2, 1987 eff. Dec. 1, 1987.



Section 130-1.1 Costs; sanctions.

(a) The court, in its discretion, may award to any party or attorney in any civil action or proceeding before the court, except where prohibited by law, costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees, resulting from frivolous conduct as defined in this Part. In addition to or in lieu of awarding costs, the court, in its discretion may impose financial sanctions upon any party or attorney in a civil action or proceeding who engages in frivolous conduct as defined in this Part, which shall be payable as provided in section 130-1.3 of this Part. This Part shall not apply to town or village courts, to proceedings in a small claims part of any court, or to proceedings in the Family Court commenced under Article 3, 7 or 8 of the Family Court Act.

(b) The court, as appropriate, may make such award of costs or impose such financial sanctions against either an attorney or a party to the litigation or against both. Where

COURTS

LITIGANTS

ATTORNEYS

JURORS

JUDGES

CAREERS

SEARCH

Reporting

116
Community Dispute
Res. Ctr. Program

117
Court Appointed
Special Advocate
Programs

118
Registration of
Attorneys

119
[Reserved]

120
[Repealed]

121
Temp. Assign. of
Judges to the
Supreme Court

122
Judicial Hearing
Officers

123
Requirements of
Material Submitted to
Supreme Ct. Law
Libraries

124
Public Access to
Records

125
Rules for
Engagement of
Counsel

126
Compensation & Exp.
of Judges Assign. to
City Court

127
Assign. and
Compensation of
Counsel,
Psychiatrists, etc.

128
Rules for the Jury
Sys.

129
Fair Treatment
Standards for Crime
Victims

130
Cost Sanctions

131
AV Coverage of
Judicial Proceedings

132
UCS Employee
Suggestion Incentive
Program

133
UCS Merit Perf.
Award Program

134
Reporting of Family
Offenses

the award or sanction is against an attorney, it may be against the attorney personally or upon a partnership, firm, corporation, government agency, prosecutor's office, legal aid society or public defender's office with which the attorney is associated and that has appeared as attorney of record. The award or sanctions may be imposed upon any attorney appearing in the action or upon a partnership, firm or corporation with which the attorney is associated.

(c) For purposes of this Part, conduct is frivolous if:

(1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law;

(2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or

(3) it asserts material factual statements that are false.

Frivolous conduct shall include the making of a frivolous motion for costs or sanctions under this section. In determining whether the conduct undertaken was frivolous, the court shall consider, among other issues the (1) circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct; and (2) whether or not the conduct was continued when its lack of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel or the party.

(d) An award of costs or the imposition of sanctions may be made either upon motion in compliance with CPLR 2214 or 2215 or upon the court's own initiative, after a reasonable opportunity to be heard. The form of the hearing shall depend upon the nature of the conduct and the circumstances of the case.

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: Oct. 9, 1997; Jan. 8, 1998; June 25, 1998 eff. June 19, 1998. Amended (a).



Section 130-1.1a Signing of papers.

(a) Signature. Every pleading, written motion, and other paper, served on another party or filed or submitted to the court shall be signed by an attorney, or by a party if the party is not represented by an attorney, with the name of the attorney or party clearly printed or typed directly below the signature. Absent good cause shown, the court shall strike any unsigned paper if the omission of the signature is not corrected promptly after being called to the attention of the attorney or party.

(b) Certification. By signing a paper, an attorney or party certifies that, to the best of that person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, (1) the presentation of the paper

135
Sick Leave Donation
Program

or the contentions therein are not frivolous as defined in section 130-1.1(c) of this Subpart, and (2) where the paper is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom, and (ii) the matter was not obtained in violation of 22 NYCRR 1200.41-a [DR 7-111].

136
Fee Arbitration in
Domestic Relations
Matters

137
Fee Dispute Res.
Program

Historical Note

Sec. filed Oct. 9, 1997; amd. filed Jan. 8, 1998 eff. March 1, 1998. Amended eff. date from Jan. 1, 1998 to March 1, 1998.

138
Justice Court Assist
Program

Revised February 01, 2007 - [Previous Version](#)

139
[Reserved]



140
Civil Actions or
Proceed. Brought by
Inmates

Section 130-1.2 Order awarding costs or imposing sanctions.

The court may award costs or impose sanctions or both only upon a written decision setting forth the conduct on which the award or imposition is based, the reasons why the court found the conduct to be frivolous, and the reasons why the court found the amount awarded or imposed to be appropriate. An award of costs or the imposition of sanctions or both shall be entered as a judgment of the court. In no event shall the amount of sanctions imposed exceed \$10,000 for any single occurrence of frivolous conduct.

141
Integrated Domestic
Violence Parts

142
Criminal Division of
Supreme Court in
Bronx County

144
New York State
Parent Education and
Awareness Program

145
Integrated Youth
Court in Westchester
County

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: Oct. 9, 1997; Jan. 8, 1998 eff. March 1, 1998. Amended eff. date from Jan. 1, 1998 to March 1, 1998.

146
Guidelines For
Qualifications And
Training Of ADR
Neutrals Serving On
Court Rosters



Section 130-1.3 Payment of sanctions.

Payments of sanctions by an attorney shall be deposited with the Lawyers' Fund for Client Protection established pursuant to section 97-t of the State Finance Law. Payments of sanctions by a party who is not an attorney shall be deposited with the clerk of the court for transmittal to the Commissioner of Taxation and Finance. The court shall give notice to the Lawyers' Fund of awards of sanctions payable to the fund by sending a copy of the order awarding sanctions, or by sending other appropriate notice, to the Lawyers' Fund for Client Protection, 119 Washington Avenue, Albany, NY 12210.

150
Independent Judicial
Election Qualification
Commissions

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: May 22, 1995; Oct. 13, 1999 eff. Oct. 7, 1999.



Section 130-1.4 Application to officers other than judges of the courts of the Unified Court System.

The powers of a court set forth in this Subpart shall apply to

judges of the housing part of the New York City Civil Court and to support magistrates appointed pursuant to section 439 of The Family Court Act, except that the powers of Family Court support magistrates shall be limited to a determination that a party or attorney has engaged in frivolous conduct, which shall be subject to confirmation by a judge of the Family Court who may impose any costs or sanctions authorized by this Subpart.

Historical Note

Sec. filed Oct. 31, 1988; amd. filed March 29, 2001 eff. March 26, 2001.



Section 130-1.5 Exception.

This rule shall not apply to requests for costs or attorneys' fees subject to the provisions of CPLR 8303-a.

Historical Note

Sec. filed Oct. 31, 1988 eff. Jan. 1, 1989.



Section 130-2.1 Costs; sanctions.

(a) Notwithstanding and in addition to the provisions of Subpart 130-1 of this Part, the court, in its discretion, may impose financial sanctions or, in addition to or in lieu of imposing sanctions, may award costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees, upon any attorney who, without good cause, fails to appear at a time and place scheduled for an action or proceeding to be heard before a designated court. This Part shall not apply to town or village courts or to proceedings in a small claims part of any court.

(b) In determining whether an attorney's failure to appear at a scheduled court appearance was without good cause and in determining the measure of sanctions or costs to be imposed, the court shall consider all of the attendant circumstances, including but not limited to:

(1) the explanation, if any, offered by the attorney for his or her nonappearance;

(2) the adequacy of the notice to the attorney of the time and date of the scheduled appearance;

(3) whether the attorney notified the court and opposing counsel in advance that he or she would be unable to appear;

(4) whether substitute counsel appeared in court at the time previously scheduled to proffer an explanation of the attorney's nonappearance and whether such substitute counsel was prepared to go forward with the case;

(5) whether an affidavit or affirmation of actual engagement

was filed in the manner prescribed in Part 125 of the Uniform Rules for the Trial Courts of the Unified Court System;

(6) whether the attorney on prior occasions in the same action or proceeding failed to appear at a scheduled court action or proceeding;

(7) whether financial sanctions or costs have been imposed upon the attorney pursuant to this section in some other action or proceeding; and

(8) the extent and nature of the harm caused by the attorney's failure to appear.

(c) The court, as appropriate, may impose any such financial sanctions or award costs upon an attorney personally or upon a partnership, firm, corporation, government agency, prosecutor's office, legal aid society or public defender's office with which the attorney is associated and that has appeared as attorney of record.

(d) The imposition of sanctions or award of costs may be made either upon motion or upon the court's own initiative, after a reasonable opportunity to be heard. The form of the hearing shall depend upon the nature of the attorney's failure to appear and the totality of the circumstances of the case.

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: Nov. 2, 1989; May 22, 1995; Oct. 9, 1997; Jan. 8, 1998 eff. March 1, 1998. Amended eff. date from Jan. 1, 1998 to March 1, 1998.



Section 130-2.2 Order imposing sanctions and costs.

The court may impose sanctions or award costs or both only upon a written memorandum decision or statement on the record setting forth the conduct on which the award or imposition is based and the reasons why the court found the attorney's failure to appear at a scheduled court appearance to be without good cause. The imposition of sanctions or an award of costs or both shall be entered as a judgment of the court. In no event shall the total amount of sanctions imposed and costs awarded exceed \$2,500 for any single failure to appear at a scheduled court appearance.

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: Nov. 2, 1989; May 22, 1995; Oct. 9, 1997; Jan. 8, 1998 eff. March 1, 1998. Amended eff. date from Jan. 1, 1998 to March 1, 1998.



Section 130-2.3 Payment of sanctions.

Payments of sanctions shall be deposited with the Lawyers' Fund for Client Protection established pursuant to section

97-t of the State Finance Law.

Historical Note

Sec. filed Oct. 31, 1988; amds. filed: Nov. 2, 1989; May 22, 1995 eff. July 1, 1995.



Section 130-2.4 Application to officers other than judges of the courts of the Unified Court System.

The powers of a court set forth in this Subpart shall apply to judges of the housing part of the New York City Civil Court, support magistrates appointed pursuant to section 439 of the Family Court Act, and judicial hearing officers, except that:

(a) the power of the Family Court hearing examiners shall be limited to a determination that an attorney, without good cause, has failed to appear at a time and place scheduled for a Family Court proceeding, which shall be subject to confirmation by a judge of the Family Court who may impose any sanctions authorized by this Subpart; and

(b) the powers of judicial hearing officers shall be limited to civil cases.

Historical Note

Sec. filed Nov. 2, 1989; amds. filed: May 22, 1995; March 29, 2001 eff. March 26, 2001.

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