Revised March 26, 2013

Kings County
Supreme Court
Uniform Civil Term Rules

The Judges of the Civil Term Supreme Court, in order to promote the efficient and impartial administration of justice, hereby adopt the following common and uniform rules[1]:

PART A

Papers

This rule applies to all Civil Term Parts of the Court.

Motions, orders and other filed papers shall be indexed with protruding tabs. Clerks are required to reject papers that do not have protruding exhibit tabs, except papers in matrimonial cases and papers filed by pro se litigants. Motion papers must be filed with the Motion Support Office, currently located in Room 227, or in the Ex Parte Office, currently located on the 10th floor North, or in the Foreclosure Part Office, Room 773, or in the Guardianship Office, Room 850, or in the Mental Hygiene Office, Room 479a,[2] at 360 Adams Street at least five (5) business days before the return date of the motion. Cross-motions must be filed at least two (2) days before the return date of the motion.[3]

PART B

PC (Preliminary Conference) Rules

1. The filing/purchasing of an RJI will automatically prompt the scheduling of a preliminary conference, but the Court will accept a stipulation of adjournment if there is a dispositive motion pending.

2. The attorneys shall, in the first instance, attempt to reach an agreement on all relevant discovery categories outlined in the consent order. Disputed matters will be adjudicated by the Court.

3. The parties must be prepared with bills of particulars, medical reports and insurance coverage.

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[1]Rules pertaining to Matrimonial, Commercial and Foreclosure parts are incorporated herein. Where rules in such parts differ from general rules, specialized rules shall govern.

[2]These rules do not otherwise control the Mental Hygiene or Condemnation Parts.

[3]Room changes may be made upon appropriate notice.

4. Strict compliance with the PC order shall be enforced by the imposition of costs and sanctions when appropriate.

5. Discovery in third party and joint actions will be expedited.

6. Any motion seeking discovery related relief filed prior to the PC shall be scheduled concurrently with the PC in the Intake Part.

PART C

Motions in IAS Parts

1. Motion papers, answering affidavits and reply affidavits must be served on adversaries in accordance with CPLR 2214.

2. Irrespective of the return date indicated in the notice of motion, motions will be rescheduled by the Motion Support Office to a date designated by the assigned Judge.

3. All motions require appearances and oral argument.

4. Unless the Judge's Part Rules provide otherwise, motions may be adjourned twice, on consent, without appearance, for a period not to exceed sixty (60) days from the initial return date of the motion. Adjournment of motions without appearance may be done by usage of stipulation or affirmation submitted no later than the previous work day. Any subsequent adjournment shall be by personal application.

5. No courtesy copies of motion papers are required by the Court, except as may be required for electronic filing or by the Judge's Part Rules. In tort cases against the City of New York, courtesy copies shall be supplied to the Corporation Counsel's office in Brooklyn.

6. <u>Post Note of Issue Summary Judgment Motion</u>: In cases where the City of New York is a defendant and is represented by the Tort Division of the Corporation Counsel's office, summary judgment motions may be made no later than 120 days after the filing of a Note of Issue. In all other matters, including third party actions, motions for summary judgment may be made no later than 60 days after the filing of a Note of Issue. In both instances the above time limitation may only be extended by the Court upon good cause shown. See CPLR 3212(a).

Motion Calendar Calls

7. There shall be two (2) calendar calls on motion days. The first calendar call shall be at 9:30 AM and the second calendar call shall be at 10:45 AM, unless the Judge's Part Rules provide otherwise. Defaults shall only be taken on second call. Attorneys with

appearances elsewhere in the courthouse may advise the clerk of their whereabouts to avoid a default. Failure to so advise the clerk or appear at the default calendar call will result in a default order being entered or the motion being marked off the calendar.

PART D

Note of Issue

1. The filing requirement for Notes of Issue in Kings County is an original and two (2) copies.

2. Any party objecting to the filing of a Note of Issue may move to vacate, pursuant to Uniform Rules for the NYS Trial Courts section 202.21(e).

3. Any third party action commenced after the filing of a Note of Issue shall be subject to severance.

4. A 90-day notice (CPLR 3216) shall permit a plaintiff to file a Note of Issue within such ninety (90) days without a Court order.

PART E

Central Compliance Part Rules

Compliance Conferences

1. The purpose of the compliance conference is to monitor the progress of discovery, set a deadline for filing a Note of Issue and resolve any outstanding discovery issues. Consequently, parties attending the compliance conference must be fully familiar with the case, the status of any disclosure proceedings, and any settlement negotiations. The parties attending the conference must also be prepared and authorized to enter into binding stipulations.

2. Appearance at the compliance conference is not necessary if a Note of Issue has been served and filed with the Court prior to the compliance conference date. In such cases, a copy of the Note of Issue may be presented to the part clerk on the date of the conference or a party may notify the clerk prior thereto.

3. There will be no adjournments of a scheduled compliance conference except in special circumstances. Special circumstances include pending dispositive motions and stays at the discretion of the presiding Judge.

Conference Calendar Calls

4. Attorneys are required to check in with the clerk between 9:30 AM and 10 AM. Compliance conference forms are available in the courtroom and may be completed when all parties are present. Consent orders must be signed by all parties prior to review by a court attorney. When all parties are present and there is a disagreement on any issue, a court attorney will conference the case in the first instance. If the court attorney is unsuccessful in resolving the issue, the matter will be referred to the assigned Judge.

5. There are two calendar calls: the first call is at 10:45 AM and a default call at 11:45 AM. Attorneys with appearances elsewhere in the courthouse should advise the clerk of their whereabouts to avoid a default. Failure to so advise the clerk or appear at the default calendar call will result in a default order being entered or dismissal of the action. Any order granted on default must be served on all defaulting parties within seven (7) days of the order.

6. Cases dismissed for non-appearance may be restored by written stipulation signed by all parties or by motion.

Motions

7. Motions which only seek discovery related relief are scheduled by the Motion Support Office in the Centralized Compliance Part on the notice date of the motion, regardless of judicial assignment. Motions are heard in the Centralized Compliance Part every day of the week. Attorneys are advised to consult the New York Law Journal or the Unified Court System's Future Court Appearance Website for the return dates and parts of motions that do not only seek discovery related relief.

Orders

8. Any order granted on default must be served on all defaulting parties within seven (7) days of the order.

9. If all parties who were served with the motion are present, they may enter into a consent order. The consent order must be signed by all parties. If a new Note of Issue date is required, the order should be filled out and signed by all parties leaving a space for the Note of Issue filing date to be entered by a court attorney. Consent orders are not effective until they have been reviewed by a court attorney and signed by the Judge.

10. Motions or orders seeking transfer of lottery or structured settlement proceeds shall be placed on motion calendars.

Adjournment of Motions

1. One adjournment, for a period not to exceed sixty (60) days from the initial return date of the motion, will be permitted on consent of all parties either by written stipulation or by appearance in Court. Any application for a further adjournment will be referred to the assigned IAS judge forthwith.

    a. Adjournment by stipulation: Stipulations must be signed by all parties who were served with the motion.

    b. In Court Adjournment: For the first adjournment, all parties who were served with the motion must be present and consent to the adjournment.

    c. There shall be no extension of time for filing summary judgment motions after the Note of Issue except upon application to the Court.

PART F

General Foreclosure Rules

1. All foreclosure matters dealing with the same block and lot number shall be assigned to the same judge even where an earlier matter has been previously disposed.

2. In all foreclosure proceedings, the following form orders, judgments and applications, available at the Clerk's office or online, must be utilized: the Order of Reference; the Judgement of Foreclosure and Sale; a Deficiency Judgment; the Order in a Surplus Money Proceeding; and the Referee's Application for Additional Compensation.

3. The Ex-Parte Clerk is authorized to reject:

- Motion papers that are not in compliance with the CPLR;
- Motion papers filed less than five (5) days before the return date of the motion;
- An application for an Order of Reference or Judgment that does not contain a statement pursuant to CPLR 3408, indicating eligibility/exemption from conference;
- A notice of sale that does not comply with Rule 12;
- An application for surplus money that does not contain a recognized title search or its equivalent as an exhibit;
- A discontinuance in a foreclosure action except upon court order after an RJI has been filed.

4. A proposed order must be attached to any motion submitted to the Motion Support Office. In the event that a proposed order is not submitted with the motion it must be submitted to the IAS Judge within sixty (60) days or the motion may be deemed abandoned.

5. Each Order of Reference must have appended thereto, the history of the property by way of a chain of assignment, the date of the assignment, and a reference to the tab where that assignment is located.

6. If opposed, motions will be adjourned by the clerk to the assigned judge's next available motion date for argument.

7. Every affidavit for an exemption from a conference made pursuant to CPLR 3408 and RPAPL 1304 must specify the grounds for same and provide supporting documentation and affidavits from persons with direct knowledge. Where the claim is that the borrower is not living in the subject house, then an affidavit of investigation substantiating this allegation must be appended which states *inter alia* that the borrower is not living in the house and that no action by the mortgagee or its agents procured same. This affidavit shall be included in the motion for a Judgment of Foreclosure and Sale.

8. Within one year after the signing and entry of an Order of Reference, an application for a Judgment of Foreclosure and Sale must be made. Such period of time will be suspended by the filing a Forbearance or Settlement Agreement with the clerk of this court. Failure to comply will result in an automatic dismissal of the action.[a]

9. The court-appointed referee shall determine the date of the sale which is to be held at the time and place indicated in the Judgement of Foreclosure and Sale and shall notify plaintiff sufficiently in advance thereof to permit publication of the Notice of Sale in compliance with RPAPL §231.

10. It is the plaintiff's responsibility to arrange for publication. The costs of publication may be recouped from the proceeds of the sale.

11. A Notice of Sale must be submitted to the Foreclosure Department at least ten (10) days prior to the date of the auction. A copy of the Notice of Sale must simultaneously be sent to the owner of the equity of redemption at both his/her last known address and the property address. An affidavit of service of such notice shall be presented to the clerk on or before the auction sale.

12. Notices of Sale may be filed with the Clerk within one year of the entry of the Judgment of Foreclosure and Sale. Permission of the Court must be obtained for any filings made thereafter.

13. It is the plaintiff's responsibility to notify the referee of any encumbrances in advance of the sale date.

14. In the event plaintiff adjourns or cancels the sale, at least five (5) days notice, both written and telephonic must be given to the referee. If such notice is not timely given, plaintiff shall pay $250.00 to the referee in compensation.

15. A legally competent representative of plaintiff authorized to act on plaintiff's behalf, must appear at the auction sale.

16. The upset price may not be greater than the amount stated in the referee's report of sale together with CPLR judgment interest running from the filing of the Judgment of Foreclosure and Sale together with the amount represented by receipted bills for taxes. The referee appointed for the sale of the property may add judgment interest and taxes to the upset price at the time of the auction. Any additional maintenance charges or other expenses must be by separate order of the Court.

17. All Forbearance Agreements must be filed with the Foreclosure Clerk of the Court within twenty (20) days of the execution thereof.

18. No action may be discontinued except upon application to discontinue or stipulation by the plaintiff to discontinue submitted for approval by the Court. Payment of the fee required by CPLR 8020(d)(1) shall precede submission of the proposed discontinuance to the Court. Where a defendant homeowner has appeared for a settlement conference in a residential foreclosure action, either in person or by an attorney, an application to discontinue or stipulation of discontinuance must be served on opposing counsel or pro se defendant.[c]

PART G

Foreclosure Settlement Part
Rules

The purpose of this part is to preserve community housing, preserve banking funds, and to help a homeowner avoid the loss of his or her home.

1. A conference is required pursuant to CPLR 3408.[b]

2. An appearing homeowner shall file a notice of appearance in the action indicating the homeowner's name, address, telephone number, cell phone number and e-mail address on a form provided by the Court, with the clerk of the Foreclosure Conference Part who shall then forward it for appropriate filing.

3. Each appearing homeowner shall be provided with an information sheet that informs

him/her of the foreclosure process.

4. Plaintiffs' counsel must appear in the Foreclosure Conference Part with the work-out package describing potential loss mitigation options, reasonably current payoff and reinstatement figures, and with settlement authority and/or a direct contact number where a servicing agent with settlement authority can be reached and participate in settlement discussions before the Court.

5. The homeowner or his/her agent shall provide to the conference part employment verification, tax, and other records as required.

6. For cases involving servicing agents who have opted into the Home Affordable Modification Program (HAMP), counsel shall appear in the Foreclosure Conference Part with a status report regarding the outcome of the servicing agents' evaluation for HAMP modification, and specific written justification with supporting details if modification under HAMP was denied.

7. All foreclosure cases in which the servicing agent as well as the homeowner has agreed to a trial modification, whether under HAMP or otherwise, shall be given a control date in the Foreclosure Conference Part coincident with the trial modification period.

8. In cases where settlement cannot be reached, plaintiffs' counsel shall submit a letter to the Foreclosure Conference Part and to the IAS Part, indicating the appearance of the homeowner and the good faith basis for the termination of the settlement negotiations that may result in foreclosure which may lead to the defendant's losing his/her home, cf. CPLR 3408(a).

9. Foreclosure cases will be marked off the Foreclosure Conference calendar if: (a) the defendant has failed to appear for two (2) scheduled settlement conferences; (b) the Court has determined that the parties would not benefit from further settlement discussions; or (c) a settlement has been reached and the plaintiff has filed a Stipulation of Discontinuance or Forbearance Agreement with the Foreclosure Settlement Conference Part as well as the Court.

10. Any agency or representative assisting the homeowner shall provide copies of all documents, including the completed work-out package, to the homeowner, who should bring them to the settlement conference.

11. All parties must appear at the settlement conference until the action is settled by means of a modification or other agreement signed by all parties as well as the IAS judge or the matter is referred to the IAS part.

PART H

Auction Rules

1. The Referee and all interested parties must be present at the place indicated in the Order of the Court on the published date promptly at 2:30 PM.

2. The Terms of Sale, including any known encumbrances, must be posted outside of the courtroom no later than 1:45 PM of the day of sale.

3. Referees shall announce any encumbrance on the property prior to bidding.

4. Referees will accept either 1) cash; or 2) certified or bank check made payable to the Referee. No double-endorsed checks will be accepted.

5. A successful bidder must have in his/her possession at the time of the bid the full 10% of the sum bid, in cash or certified or bank check to be made payable to the Referee.

6. All bidders must have proof of identification and will be required to stand and state their names and addresses on the record at the time the bid is made.

7. No sale will be deemed final until the full 10% deposit has been paid to the Referee and a contract has been signed, which must be done in the courthouse immediately following the sale.

8. If a successful bidder fails to immediately pay the deposit and sign the Terms of Sale, the property will be promptly returned to auction the same day.

9. Bidders are cautioned that the failure to pay the full purchase price bid and appropriate closing costs at a closing to be scheduled within thirty (30) days following the auction may result in the forfeiture of the 10% deposit. The consent of the Court will be required for adjournment of the closing beyond ninety (90) days.

10. The amount of the successful bid, which will become the "purchase price," will be recorded by the court reporter.

11. If the successful bidder defaults in concluding the transaction at the purchase price, he/she may be liable for the difference if the property is subsequently sold at auction for a sum which is inadequate to cover all items allowed in the Final Order and Judgment.

12. It is the responsibility of the bidder to acquaint him/herself with the property, any encumbrances thereon, and the Terms of Sale before placing a bid and to be certain that adequate funds are available to make good the bid. The failure of the successful bidder to complete the transaction under the terms bid will presumptively result in the bidder's preclusion from bidding at auction for a period of sixty (60) days.

PART I

Commercial Division Rules

General

1. The following rules are intended to supplement the Statewide Standards and Rules for the Commercial Division (Uniform Rule § 202.70), which are applicable in Kings County. Counsel are expected to comply with all Statewide Rules as well as those promulgated herein.

2. The monetary threshold for cases in Kings County Commercial Division has been raised from $50,000.00 to $75,000.00.

3. Any party requesting a preliminary conference must annex a copy of the pleadings to the RJI when the request is filed with the Court.

4. Other than as expressly provided in the Rules of the Commercial Division or upon instruction of the Court, the Court will not accept or entertain letter applications for substantive relief. Unless directed by the Court, no communications are to be FAXED to Chambers other than Stipulations of Adjournment in compliance with these rules, PC Orders prepared in conformity with Rule 7, or disclosure-related communications pursuant to Rule 18.

5. Courtesy copies should not be provided unless the Court so directs.

Conferences

6. Preliminary Conferences. All preliminary and compliance conferences will be held on Wednesdays beginning at 9:45 AM unless otherwise directed by the Court. The conference calendar will be called after the first call of the motion calendar.

7. Online Preliminary Conference Orders. Preliminary Conference Orders may be entered on consent of the Court and all parties by printing and filling out the Preliminary Conference Form posted on the Kings County Commercial Division website. Following a conference call with the Court, the PC order, executed by all parties, must be faxed to Chambers two (2) business days prior to the date scheduled for the PC conference. Failure to timely comply with the procedural constraints herein will require an appearance on the scheduled date.

8. Prior to appearing for a preliminary conference, counsel should confer with clients so that schedules can be set for discovery.

9. Adjournment of Preliminary Conference. Adjournment of a preliminary conference may

be requested by submission of a written stipulation at least two (2) business days prior to the scheduled date. Stipulations must be accompanied by a cover letter explaining the reason for the adjournment. The adjournment of a conference is at the discretion of the Court and may be permitted for good cause shown. No preliminary conference shall be adjourned more than once or for more than thirty (30) days. Fax numbers for all counsel must be provided in the cover letter or the stipulation. Any request for further adjournments will be entertained only under the most compelling circumstances and must be made via a telephone conference call with the Court in which all parties participate.

10. Adjournments of any other conferences are permitted for good cause with the approval of the Court on written stipulation of all parties submitted at least two (2) business days prior to the scheduled date of the conference. Stipulations may be faxed to the Judge's Chambers. Fax numbers may be found on the Kings County Commercial Division website under the Judges' Part and Chambers Information.

Motions

11. The Court will entertain motions, as scheduled in the New York Law Journal and on E-Courts, on Wednesdays unless otherwise directed by the Court. Information on future court appearances is available on E-Courts (www.nycourts.gov/ecourts). All motions require appearances and oral argument. All responsive papers must be filed with the Motion Support Office or the Clerk of the Part at least two (2) business days before the scheduled date of the motion.

12. The first call of the motion calendar will be at 9:45 AM. The second and final call will be held at 10:15 AM.

13. An appearance by an attorney with knowledge of the case and authority to bind the party is required on all motions and conferences.

14. Upon the argument of a dispositive motion the Court will determine whether discovery shall proceed pending decision. As a general rule, discovery is not stayed by the filing of a dispositive motion.

15. Motions for Summary Judgement. All summary judgment motions shall be accompanied by a Statement of Material Facts as set forth in the Uniform Rules, §202.70(g), Rule 19-a.

16. Following argument and reservation of decision by the Court, no supplemental submissions will be accepted by letter or otherwise unless expressly authorized in advance. Uniform Rules, §202.70(g), Rule 18.

17. Adjournment of Motions. Dispositive motions (made pursuant to CPLR 3211, 3212 or 3213) may be adjourned only with the Court's consent. Non-dispositive motions may be adjourned by written stipulation no more than three times for a total of no more than sixty

(60) days unless otherwise directed by the Court. Adjournments must be obtained at least two (2) business days in advance of the return date except in the case of an emergency. Stipulations must be accompanied by a cover letter explaining the reason for the adjournment. Fax numbers for all counsel must be provided in the cover letter or the stipulation.

18. Disclosure Disputes. Parties must comply with the Uniform Rules, §202.70(g), Rule 14, regarding consultation among counsel prior to contacting the Court. If counsel are unable to resolve a dispute, the party seeking Court intervention shall send a letter to the Court, of no more than two (2) pages, upon notice to all parties, describing the problem and the relief requested. Such letter may be answered within eight (8) days by letter of no more than two (2) pages, also on notice to all parties. The party requesting relief shall then contact Chambers to arrange a conference (preferably by telephone) to resolve such dispute. If no effort is made by counsel to schedule such conference, the Court will infer that the matter has been resolved and will take no action. The Court may order that a motion be made but no discovery motion will be entertained without prior compliance wit this rule.

19. The Kings County Commercial Division will strictly enforce Uniform Rules, §202.70(g), Rules 6 and 17 relating to the form and length of papers submitted to the Court. Unless the Court has authorized a longer brief in advance, counsel are advised that briefs and affidavits in excess of 25 and 15 pages as specified in the rules may be rejected.

Orders to Show Cause
Temporary Restraining Orders

20. Orders to Show Cause are argued on the date indicated in the order unless otherwise adjourned with the consent of the court.

21. Where no affidavit of prejudice has been provided pursuant to Uniform Rules, §202.70(g)(3), Rule 20, notice of applications for Temporary Restraining Orders (TRO) contained in an Order to Show Cause must be given to opposing counsel, or parties if no attorney has previously appeared, at least six hours in advance of submission to the court and must contain a specific time and date of submission so as to afford an opportunity to appear. Proof of such notice (which may be by attorney's affirmation) must accompany the proposed Order.

22. Contested applications for TROs will not be heard after 4:00 PM absent extraordinarily compelling circumstances. [See Uniform Rules, §202.70(g), Rule 20. Temporary Restraining Orders]

Trials

23. A firm trial date will be established at a final settlement conference to be held at the

conclusion of discovery. The Court may direct the parties to appear at such conference.

24. At the final settlement conference, a pre-trial conference will be scheduled in compliance with Uniform Rules, §202.70(g), Rules 25 to 33, to be held following the filing of a Note of Issue and approximately ten (10) days in advance of the trial date. Trial counsel must appear. Pre-marked exhibits, pre-trial memoranda, requests to charge, witness lists, and in-limine applications, which are to be made by letter of no more than two (2) pages, duly served upon all parties and the Court at least eight (8) days in advance of the date of the pre-trial conference, shall be provided at the pre-trial conference as required pursuant to Uniform Rules, §202.70(g), Rules 25 to 33. Responses to in limine applications, also in letter form of no more than two (2) pages, shall be served at least five (5) days prior to the pre-trial conference. Short and concise pre-trial memoranda are preferred, containing a statement of the facts and issues of the case and the relevant principles of law with citations to controlling authority. Counsel must confer prior to appearance at the pre-trial conference so that exhibits that are not disputed can be identified and stipulated into evidence. Failure to identify an exhibit on the pre-trial list of exhibits may result in preclusion of such exhibit at trial.

Alternative Dispute Resolution

25. In the interest of expediting prompt resolution of disputes at a minimum expense to the litigants, a mediation program is available through the Kings County Commercial Division. Pursuant to Uniform Rules §202.70(g)(3), the Court may direct counsel and the parties to participate in non-binding mediation. In Kings County, experienced former jurists, acting as JHOs, are available at no expense to the parties. Alternatively, Kings County has available a roster of trained practitioners willing to accept a referral from the Court for mediation, to whom litigants may be referred. Discovery continues pending mediation unless otherwise ordered by the Court. Counsel are referred to the Rules for Alternative Dispute Resolution for Kings County for more detailed information

PART J

Uniform Matrimonial Rules

These rules apply to all matrimonial actions including those assigned to the Integrated Domestic Violence Parts.

ALL PAPERS IN MATRIMONIAL ACTIONS SHALL BE FILED IN THE MATRIMONIAL CLERKS OFFICE ON THE 10th FLOOR, AT 360 ADAMS STREET.

Appearances and Adjournments

1. All parties must be present at each appearance unless excused by the Court.

2. A Notice of Appearance shall be filed in the Office of the County Clerk and the Matrimonial Office on the 10th Floor.

3. Requests for adjournments should be made in advance by conference call to the court and include the attorney for the child. Counsel is then to prepare a stipulation including the caption and index number of the case, the appearance date, the adjourn date, and the reason for the adjournment. The stipulation shall be faxed to the chambers at least one (1) day prior to the scheduled appearance date. All adjournments are subject to final approval by the Judge.

4. All adjournments on the grounds of engagement of counsel shall be granted only in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. Affirmation must be faxed to the court at least one (1) day prior to the court appearance.

5. Two business cards are to be submitted to the court at the first appearance.

6. Litigants are to be advised by counsel that communication with chambers staff or the court is not permitted at any time when they are represented.

Orders of Protection

7. *Ex Parte* Orders of Protection are heard the same day they are filed.

8. Counsel are required to have their clients present, unless excused by the court.

Automatic Order

9. Pursuant to Domestic Relations Law section 236 B (2), when serving a summons, a copy of the automatic order must also be served.

Request for Judicial Intervention (RJI)

10. A request for a preliminary conference shall accompany the RJI and both are to be served on all parties.

11. Both a copy of the RJI and the request for a preliminary conference shall be filed with the Kings County Clerk's office and a copy is to be brought to the Matrimonial Clerk's office.

***Ex Parte* Applications**

12. Any application for temporary injunctive relief shall contain an affirmation

demonstrating there will be significant prejudice to the party seeking the restraining order by giving notice. In the absence of a showing of significant prejudice, an affirmation must demonstrate that a good faith effort has been made to notify the party against whom the restraining order is sought in accordance with 22 NYCRR 202.7. This rule does not apply to temporary orders of protection.

Motions and Orders to Show Cause

13. Motions shall be made returnable only on the part's motion date(s), or they can be calendared to the part's next available motion date by the Matrimonial Clerk's Office . If the case already has a date scheduled in the future, the motion may be made returnable on that previously assigned date even if it is not a regularly scheduled motion date.

14. Oral argument is required on all motions unless dispensed with by the Judge.

15. All responsive papers, including cross-motions, shall be filed in the Matrimonial Clerk's Office at least two (2) days prior to the return date of the motion.

16. All exhibits are to be tabbed.

17. Any application related to child support shall include a child support standards act worksheet.

17a. All applications and responses thereto for *pendente lite* maintenance shall include a worksheet and calculation pursuant to DRL 236 (B) (5) as well as an affidavit of net worth. Any request for deviation must articulate which of the 19 factors relied upon and the reason for the deviation request.

18. Counsel and the parties are required to appear personally on all motions.

19. The court does not accept courtesy copies of motion papers.

20. Pursuant to the CPLR, after argument of an application, sur-replies, memorandum and letters addressed to the substance of the pending application will not be considered without prior permission of the court.

21. Allegations of fact submitted to the court, including allegations contained in an affidavit or the complaint, must be certified by counsel in the form prescribed by the Chief Administrative Judge.

22. Copies of the Family Court petition and any existing orders must be submitted with the applications to consolidate.

23. Initial post-judgment applications shall be brought by Order to Show Cause. In the event

that there is a post-judgment application pending, further applications may be made by Notice of Motion or Cross Motion.

24. All motions for contempt must be made by Order to Show Cause in conformity with the Judiciary Law.

Preliminary Conference

25. Pursuant to 22 NYCRR. 202.16(d), an RJI shall be filed within forty-five (45) days of the date of service of the summons unless an affidavit of no necessity is filed, in which case, the RJI shall be filed within 120 days.

26. Pursuant to 22 N.Y.C.R.R.202.16 (f) (1), net worth affidavits shall be filed with the court ten (10) days prior to the conference date, accompanied by the attorneys' retainer statements and the parties' recent pay stubs or W-2.

Compliance Conference

27. Counsel are directed to bring to the court's attention, by way of motion or conference call, any failure to comply with discovery orders or court directions prior to the compliance conference date.

Pre-trial Conferences

28. A Note of Issue shall be filed prior to the pre-trial conference, in accordance with the compliance conference order. A copy of the Note of Issue, showing the County Clerk's stamp, shall be filed with the Matrimonial Clerk's Office prior to the pre-trial conference.

29. Counsel shall provide the court with statements of proposed disposition, updated net worth statements with the last three (3) years tax returns, and child support worksheets when applicable.

30. All motions *in limine* shall be made by the time of the pre-trial conference.

Trial

31. Chambers shall be notified by all sides immediately if the action is resolved prior to the scheduled trial date.

32. The following, if applicable, shall be provided to the court at least one week prior to the date of trial if not previously provide at a pre-trial conference:

    a. Marked pleadings;

b. Updated affidavits of net-worth, statement of proposed dispositions and child support worksheets;

c. A witness list and any pre-trial memorandum;

d. Expert reports which were served no later than thirty (30) days before trial;

e. A list of all proposed exhibits;

f. A list of documents, pre-marked by counsel, which counsel may stipulate into evidence;

g. A written copy of any issues or facts to which parties can stipulate before trial, to be read into the record at the commencement of trial.

33. When presenting a witness with a document to be marked into evidence, a courtesy copy of that document must also be provided to the court.

34. There will be no adjournments of the trial date without express court permission.

35. Failure to proceed may result in a judgment of default or dismissal of the action.

36. Copies of trial memorandum/decisions will be mailed or faxed to counsel and self-represented litigants.

Judgments

37. All judgments shall include a completed copy of the Matrimonial Term Clerk Office's contested judgment checklist, indicating all necessary attachments.

38. Pursuant to 22 NYCRR 202.48 proposed judgments with proof of service on all parties must be submitted for signature, unless otherwise directed by the court within sixty (60) days.

Post Judgment Applications

39. If a contested judgment of divorce was signed within 18 months of an application to modify the issue of custody and/or visitation the application will be heard in the Supreme Court.

PART K

Condemnation Part Rules

These local rules supplement Uniform Rule § 202.61 with respect to obtaining of Index Numbers for Claims and exchange and Filing of Appraisal Reports in eminent Domain Proceedings.

Rule 1. Index Numbers for fee Claims. Within sixty days from the expiration of the time set forth, pursuant to EDPL 503 (B), in an order of acquisition for the filing of written claims or notices of appearance, condemnor shall obtain an index number for each of the fee claims on file with the court pursuant to the said order so that the Clerk can separately maintain the claim and all further proceedings with respect thereto, and the condemnor shall notify the claimant or its attorney of record of the index number assigned to its claim. Thereafter, papers pertaining to each claim shall be separately prepared and filed under the index number assigned to the claim. A Request for Judicial Intervention is required to initiate proceedings before the court pertaining to the claim. This Rule shall take effect on March 1st, 2012 and shall apply to all Eminent Domain Proceedings in which the time for filing written claims or notices of appearance expires after February 29th, 2012.

Rule 2. Index Number for Fixture Claims. Within six months after appraisals of fixtures have been exchanged pursuant to Uniform Rule § 202.61 (a)(1), condemnor shall obtain an index number for each individual claim for which appraisal has been exchanged so that the Clerk can separately maintain the claim and all further proceedings with respect thereto; and the condemnor shall notify the claimant or its attorney of record of the index number assigned to its claim. Thereafter, papers pertaining to each claim shall be separately prepared and filed under the index number assigned to the claim. A Request for Judicial Intervention is required to initiate proceedings before the court pertaining to the claim. This Rule shall take effect on March 1st, 2012 and shall apply to all Eminent Domain Proceedings in which appraisals of fixtures are exchanged after February 29th, 2012.

Sanctions and/or costs may be imposed for failure to comply with the rules set forth herein.

THESE RULES WILL BECOME EFFECTIVE JANUARY 2, 2010

Notes:

a. Part F, General Foreclosure Rules, rule #8 previously stated, "In addition to a conference mandated by statute, a conference will be ordered in every case when there is an appearance by the defendant owner of the equity of redemption." This rule has been eliminated, and the subsequent rules have been renumbered. Amended February 21, 2013, per Administrative Judge Lawrence Knipel.

b. Part G, Foreclosure Settlement Part Rules, rule #1 previously stated, "A conference may be required by statute or mandated by appearance, reference or request." The statement has been amended. Amended February 21, 2013, per Administrative Judge Lawrence Knipel.

c. Part F, General Foreclosure Rules, rule #18, previously stated, "No action may be discontinued except upon order of the court. Payment of the fee required by CPLR 8020(d)(1) shall precede submission of the proposed discontinuance to the Court. An application to the court to discontinue must be accompanied by an affirmation/affidavit by counsel detailing the results of any settlement conference and the parties who have appeared and whose signature is required on any stipulation submitted to the court. Where a defendant homeowner has

appeared for a settlement conference in a residential foreclosure action, either in person or by an attorney who has filed a limited notice of appearance, an application to discontinue must be served on the defendant homeowner and the attorney who filed the limited notice of appearance before submission to the court." This rule has been amended. Amended March 26, 2013, per Administrative Judge Lawrence Knipel.