

**JUSTICE JODI ORLOW
RULES FOR MATRIMONIAL PART 51
SUPREME COURT, QUEENS COUNTY
PART 51, COURTROOM 21
88-11 Sutphin Blvd.
Jamaica, N.Y. 11435
Courtroom (part clerk): 718-298-1210
Chambers: 718-298-1104
Fax: 212-416-1418
Email: QSCPart51@nycourts.gov**

**Court Attorney: Scott Fridkin, Esq.
Secretary to Judge: Samantha Freeman**

****PLEASE DO NOT CALL CHAMBERS UNLESS DIRECTED TO DO SO BY THE COURT****

Appearances and Adjournments

All parties and attorneys must be present at every appearance unless specifically excused by the court. Calendar call is at 9:30 a.m. unless otherwise instructed by the court. All attorneys and parties appearing pro se must check in with courtroom staff upon entering the courtroom.

A notice of appearance shall be filed in the Office of the County Clerk and the Matrimonial Office with a courtesy copy to part clerk.

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

Litigants who are represented by counsel must communicate with chambers staff or the court through counsel only.

Requests for adjournments shall be made 24 hours in advance and no later than 1:00 p.m. by contacting the part clerk in the courtroom. Do not contact chambers concerning adjournments unless instructed to do so by the part clerk. Do not fax or mail requests for adjournments to the court without first contacting the part clerk. After speaking with the part clerk, counsel shall prepare a stipulation including the caption and index number of the case, the appearance date, the adjourned date, and the reason for the adjournment. Faxed stipulations requesting an adjournment, with a prior court approved return date, will only be accepted if signed by all parties or their attorneys, *including the attorney for the child if one has been appointed*. The stipulation shall be faxed to chambers at least one (1) day prior to and **no later than 1:00 p.m. the day before** the scheduled appearance date or emailed to the address listed above. **All requests for adjournments are subject to denial by the Judge.**

All requests for 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. An affirmation must be faxed to the court at least one (1) day prior to the court appearance **and before 1:00 p.m.**

Upon withdrawal of an attorney, there must be a properly filed Consent to Change Attorney or Termination of Attorney with the Clerk's office and a copy to the Part Clerk.

No call shall be placed to chambers unless at the direction of the court.

All litigants who are represented by Counsel must communicate with Chambers staff through their Counsel only.

Minor children are not permitted in the courtroom, except by permission of the Court.

Orders of Protection

Applications for an *Ex Parte* Order of Protection are heard the same day they are filed.

Counsel are required to have their clients present on every court date, unless excused by the court.

At the time of check in or the calendar call, the Court shall be notified of any Orders of Protection.

Interpreters

Notification for Court Interpreter Services shall be made to the Court upon the initial filing of the Request for Judicial Intervention or Motion or any other application to the Court but not less than 24 hours prior to the first appearance. At the time of check in or calendar call, the Court shall be reminded that an interpreter is needed.

Automatic Order

Pursuant to Domestic Relations Law §236 (B)(2)(b), when serving a summons, a copy of the automatic order must also be served and noted in the affidavit of service separately.

***Ex Parte* Applications**

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

Motions shall be heard on **Thursdays**. The calendar call is at 9:30 a.m. When noticed in error the Matrimonial Clerk's Office shall calendar the motion for the part's next available motion day. 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 regular scheduled motion day. **All motion papers (including opposition and reply) must state the motion sequence number on the first page.**

To reduce the need for motion practice, counsel is strongly encouraged to contact the Court by conference call prior to filing a motion, for the Court's assistance to resolve the conflict.

If a motion is made prior to the court issuing a preliminary conference date, the return date of the motion will most likely be changed to coincide with the assigned preliminary conference date. Please follow for any changes in motion dates.

All cross-motions shall be filed with the County Clerk's office at least two (2) days prior to the return date of the motion along with payment of the appropriate fees. Answering papers shall be served pursuant to the CPLR and the original papers shall be brought to court on the return date of the motion. **Cross-motions shall not be considered as opposition to main motions. Papers proffered in opposition to the main motion shall be contained in a stand-alone document and not subsumed in a cross-motion. Likewise, papers proffered in opposition to a cross-motion shall be a stand-alone document and not subsumed in a reply. Failure to comply with the requirements of this section may result in rejection of the offending submission. No sur-replies will be considered without leave of the court. No papers may be submitted directly to Chambers unless directed by the court.**

No motion papers will be accepted by the court unless all exhibits are properly indicated by protruding tabs. All motion papers are to be securely fastened to prevent papers from becoming loose.

Any application related to child support shall include a Child Support Standards Act worksheet.

Counsel AND the parties are required to appear on all motions.

The court does not accept courtesy copies of motion papers.

Pursuant to the CPLR, after argument of an application, sur-replies, memoranda and letters addressed to the substance of the pending application will not be considered.

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.

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

Initial post-judgment applications shall be brought by Order to Show Cause. In the event that there is a post-judgment application pending, further application may be made by Notice of Motion or Cross-Motion.

Any motion pending will be deemed withdrawn upon settlement of the case unless explicit provision is made for its preservation.

All emergencies shall be heard by the Court upon proper notice pursuant to 22 NYCRR 202.7.

Preliminary Conference

Please refer to the Matrimonial Preliminary Conference Part Rules located on the court's website.

Compliance Conference

Compliance Conferences shall be held on **Wednesdays**. Calendar call is 9:30 a.m. Please be prompt. Failure to comply with discovery or preliminary conference orders shall be brought to the court's attention by conference call to chambers prior to the compliance conference to resolve any issues.

Counsel attending the conference must be fully familiar with and authorized to settle, stipulate or resolve or dispose of any issues or the action.

A Note of Issue shall be filed in accordance with the Compliance Conference Order or other Order of the Court.

Counsel and their clients must appear at the compliance conference unless absence is authorized by the Court.

Pre-Trial Conferences

Please refer to the Pre-Trial Conference Order.

Trial

All parties must appear at each trial date unless excused by the court.

Chambers shall be notified by all sides immediately if the action is resolved prior to the scheduled trial date. **The court will advance an inquest date if the action is resolved and the court is provided with a copy of the stipulation of settlement signed by all parties. All stipulations of settlement must be: 1) in writing, 2) comport with applicable sections of the Domestic Relations Law, and 3) signed by all parties. No requests to place oral stipulations of settlement on the record will be granted. There will be no exception to this rule.**

Copies of trial memoranda/decisions will be mailed, emailed or faxed to counsel and self-represented litigants.

After trial, parties and the child's attorney, if any, shall submit post-trial proposed findings of fact and conclusions of law, with copies on computer disk or email attachment in Word Perfect or Word.

Judgments

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

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

Post Judgment Applications

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.

Miscellaneous

Parties with emancipated children should be aware that the Judge may assign the parties to an approved mediation program.

All parties must be properly attired.

Electronic equipment such as beepers, cellular phones, radios, or any electronic or recording device must be turned off while in the courtroom.

If a party or counsel is required to appear in another courtroom, they must promptly advise the court officer or part clerk where they are going, how they can be reached, and when they will return. Failure to notify the court of your absence may result in the court taking appropriate action that it deems proper.

Children of the parties are **not** permitted to observe their parents' contested matrimonial proceedings. Counsel must notify court or court's personnel if the children are present in the courtroom.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: MATRIMONIAL PART 51**

PRESENT: HON. JODI ORLOW, J.S.C.

-----X

Plaintiff,

-against-

Defendant.

-----X

Index No.:

PRE-TRIAL ORDER

NOTICE: FAILURE TO COMPLY WITH THIS ORDER WILL SUBJECT THE NON-COMPLYING PARTY TO ANY SANCTION THE COURT DEEMS JUST AND PROPER INCLUDING BUT NOT LIMITED TO DISMISSAL OF THE ACTION OR COUNTERCLAIM OR THE STRIKING OF PLEADINGS, PRECLUSION OF THE WITNESS(S), EXPERT(S), OR DOCUMENT(S).

A. Both sides must be ready to proceed for Trial on _____ at 10:30 a.m.

B.

- 1) The plaintiff is to serve and file a Certificate of Readiness and Note of Issue before the Trial date.
- 2) No adjournment may be granted except under the Rules of Chief Administrative Judge, Rule 125.1, medical emergency or an unavailability of the Court.

C. The Pre-trial Conference is scheduled for _____ at _____ a.m./p.m.

THE FOLLOWING DOCUMENTS SHALL BE SERVED UPON ALL PARTIES AND FILE A COPY WITH THE COURT ON THE PRE-TRIAL CONFERENCE DATE:

- 1) A Statement of Proposed Disposition as defined by Section 202.16 of the Uniform Rules for the New York State Trial Courts to include:**
 - a. The assets claimed to be marital property;
 - b. The assets claimed to be separate property;
 - c. The allocation of debts or liabilities to specific marital or separate assets, where appropriate;

- d. The amount requested for maintenance, indicating and elaborating upon the statutory factors forming the basis for the maintenance request(s);
- e. The proposal for equitable distribution, where appropriate, indicating and elaborating upon the statutory factors forming the basis for the proposed distribution;
- f. The proposal for a distributive award, if requested, including a showing of the need for distributive award;
- g. The proposed plan for child support, indicating and elaborating upon the statutory factors upon which the proposal is based; and
- h. The proposed plan for custody and visitation of all unemancipated children involved in the proceeding, setting forth the reasons therefor.

2) Updated statements of Net Worth and most recent tax returns and W2s/1099s.

3) Stipulation or statement: Background of case to include age of parties, place of employment, current income of the parties, date and place of marriage, address of marital residence, child(ren) names and dates of birth (emancipated or unemancipated), other resolved issues, and/or all exhibit and electronic evidence to be used at trial.

4) All motions in *limine*, and all other motions.

5) Memorandum setting forth the following:

- a. ***Witnesses:*** All parties must prepare a witness list to be exchanged and filed with the Court on or before the first date of the scheduled trial: names and addresses of all witnesses that **will or may** be called at trial.

All witnesses not exchanged prior to the scheduled trial date shall be precluded unless consented to by all the parties.

- b. ***List of all previous substantive motions or decisions:*** List all previous motions to dismiss, summary judgment, separate trial of issues, consolidation of cases, change of venue, or *pendente lite* relief, the disposition or status of each dates of Orders resolving motions, copy of prior decision;
- c. ***Statement of undisputed facts:*** Provide a plain, concise statement in separate, numbered paragraphs of the agreed facts pertaining to: claims, counterclaims or demands for ancillary relief. Counsel should include a statement as to whether presentation of the case, in whole or in part, upon a formal Agreed Statement of Facts is feasible and advisable;
- d. ***Contentions of fact:*** Each party shall list all assertions of disputed factual matters;

- e. **Issues of law:** List briefly and number statements of any points of law which are expected to be in controversy, citing, without argument, the pertinent statutes, ordinances, regulations, cases or other authority. If counsels are unable to agree on a statement of all triable issues, then those agreed upon shall be listed first. The remaining issues will then be listed as proposed by each party;
- f. **Separate trial of issues:** State whether separate trial of any issue is feasible and advisable;
- g. **Experts:** List all experts to be called or may be called at trial and any stipulation relating to the number and nature of expert's proposed testimony OR a stipulation of Expert's testimony and/or report.
- h. **Requested evidentiary rulings:** Briefly state objections to admission of any item of evidence, exhibit or statement, with citation of the applicable rule of evidence;
- i. **Electronic evidence rulings:** Briefly state all electronic evidence intended to be used at trial and the applicable rule of evidence for its admission.

D. Within 30 days of trial - all parties must exchange the following and file a copy with the court on the trial date:

- 1) Exhibit List;
- 2) All exhibits stipulated to be admissible;
- 3) Proposed additional exhibits. Such lists shall include all documents or other exhibits which the party expects to offer at the trial (except those to be used only for impeachment or rebuttal), including depositions (with reference to date and page number of transcripts), answers to interrogatories and responses to requests for admissions and evidence obtained by responses to discovery demands. Exhibits not objected to will be listed as marked in evidence subject to the Court's approval. Additional exhibits shall be marked for identification. Each exhibit listed shall be given a proposed designation (numbers for plaintiff and letters for defendant). Whenever a subject matter will reasonable require itemization, computation or illustrations, counsel shall prepare diagrams, photographs or other similar exhibits as may be reasonable necessary for a clear presentation of the subject matter.

All exhibits must be produced, along with copies for the Judge and all adversaries, by the scheduled trial date. Any exhibit not produced and duplicated may be subject to preclusion unless consented to by all parties.

- a. All evidentiary rulings regarding the exhibits listed including electronic evidence intended to be used at trial must be identified prior to trial.
- b. All documents that are being requested for the Court to take Judicial Notice

must be specifically identified and outlined in the exhibit list prior to trial.

- c. All documents that require evidentiary ruling pursuant to CPLR 4539 must be so produced and identified in the exhibit list prior.

E. TRIAL DATE AND TIME:

Your trial date is time certain as set forth above in Paragraph A., in Part 51, Courtroom 21 of the Queens County Supreme Court, located at 88-11 Sutphin Blvd., Jamaica, NY 11435.

Both sides must be ready to proceed on the Trial date(s) set above.

No adjournment may be granted except under the Rules of Chief Administrative Judge, Rule 125.1, medical emergency or an unavailability of the Court.

Dated: _____
Jamaica, New York

So Ordered:

HON. JODI ORLOW, J.S.C.