

**SUPREME COURT - NASSAU COUNTY
MATRIMONIAL COURT
UNIFORM PART RULES
400 County Seat Drive, Mineola, New York 11501**

These rules are in addition to the Uniform Rules for New York State Trial Court and the Local Rules of Court. Failure to comply with any rules or orders of this Court may result in preclusion and/or sanctions without further notice.

EMAIL ADDRESSES TO BE UTILIZED FOR COMMUNICATION WITH THE COURT:

Judge S. Bennett — JudgeBennettRemote@nycourts.gov
Judge J. Conway — JudgeConwayRemote@nycourts.gov
Judge E. Dane — JudgeDaneRemote@nycourts.gov
Judge E. Fox-McDonough — JudgeFoxMcDonoughRemote@nycourts.gov
Judge J. Goodstein — JudgeGoodsteinRemote@nycourts.gov
Judge J. Lorintz — JudgeLorintzRemote@nycourts.gov
Judge E. Tobin — JudgeTobinRemote@nycourts.gov

I. COMMUNICATION WITH CHAMBERS

A. INQUIRIES:

1. **All communications with Chambers shall be either by telephone with all Counsel, unrepresented litigants, and the Attorney for the Child(ren) on the call or via electronic mail to the assigned judges remote email address. Emails sent directly to the Judge will not be read. (*Ex parte* communications will be disregarded and not read or responded to.)**
2. In all communications With Chambers by letter and/or email, the title of the action, full names of the parties and index number shall be set forth, with copies simultaneously delivered to all counsel.
3. Copies of correspondence between counsel shall not be sent to the Court. Such copies shall be disregarded and not placed in the Court's file.
4. The court shall not accept *ex parte* telephone communications on substantive issues.
5. **THE COURT WILL NOT ENTERTAIN LITIGATION BY LETTER/EMAIL. IF AN ISSUE ARISES, COUNSEL AND/OR AN UNREPRESENTED PARTY MUST CONTACT THE COURT TO REQUEST A CONFERENCE TO ADDRESS**

A SUBSTANTITIVE ISSUES. The correspondence requesting the conference shall only contain a brief description of the issue (*i.e.*, parental access, child support, etc.). Correspondence with anything more substantive will be disregarded.

- B. No out of court settlement will be recognized or accepted unless counsel submits a letter, on notice to opposing counsel, and, if applicable, the Attorney for the Child(ren), submitting the executed settlement agreement/stipulation or certifying that such agreement/stipulation has, in fact, been executed.

II. ADJOURNMENTS

A. **MOTIONS AND COMPLIANCE CONFERENCES:**

1. Applications to adjourn motions and conferences may be granted if there is consent of all parties and **prior approval of the Court.** If all parties do not consent to the adjournment, an application shall be made by conference call, **no later than 2:00 p.m.** of the day preceding the scheduled conference or motion. No requests for an adjournment will be entertained without all counsel and unrepresented parties participating in the conference call, including the Attorney for the Child(ren).
2. Applications made on consent of all parties **MUST** be made using the Request for Adjournment Form attached hereto and emailed only to the assigned Judge's remote email address specified above. The Request for Adjournment Form is to be filled out **completely.** Incomplete forms or forms received after **2:00 p.m.** on the business day prior to the conference date or return date shall be summarily denied, unless the Court is advised of extraordinary circumstances, which will be taken into consideration
3. **Adjournment requests shall not be left on the Chamber's Voice Mail or emailed directly to the Judge, Principal Law Clerk, Assistant Law Clerk, or Secretary's personal work email. Any Adjournment Requests sent via these methods shall be disregarded, absent an emergency situation.**
4. Adjournments requested because of the actual engagement **on trial** of counsel **MUST** be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR Part 125 and forwarded to the Judge's remote email as soon as practicable upon knowledge of the need to file same.
5. All counsel including the Attorney for the Child(ren) and the clients must be notified prior to the submission of the request for an adjournment form.

B. PRELIMINARY CONFERENCE:

1. Preliminary Conference adjournments will **not** be granted without a compelling reason for same. Counsel are directed to review the provisions of 22 NYCRR S 202.16 (f) concerning conferences. Proposed Preliminary Conference Orders shall be completed by the parties and forwarded to the Court prior to the scheduled conference.
2. In addition to scheduling a Compliance Conference as part of the Preliminary Conference order, the Court may direct that a pre-trial conference will also be held at the time of the Certification Conference in which event, the rules concerning pre-trial conferences as hereinafter set forth, shall be applicable.
3. Discovery deadlines, Certification deadlines, and Note of Issue deadlines, will be strictly enforced. Deadlines may not be extended, absent prior approval by the Court.

III. MOTIONS

A. PRE-MOTION RULES:

1. Except in an emergency situation or where an affirmation is presented demonstrating there will be significant prejudice to the moving party by giving prior notice, prior to the making or filing of any motions, counsel for the prospective moving party shall first serve a written notice to the opposing party of the intention to make the motion and the relief that will be sought in the motion and shall discuss the issue(s) in question with his or her adversary and offer to make a good faith effort to resolve the matter. The Attorney for the Child(ren) shall be included, where applicable.
2. The non-moving party is required to respond, in writing, to the moving party, setting forth consents and/or objections to the relief requested, within 48 business hours of receipt of the written notice from the moving party.
3. The movant shall submit to the Court, as part of their motion papers, proof of compliance with the prior above mentioned notification requirement, which will include copies of both counsel's letters.
4. This rule does not apply to applications for counsel to be relieved.

B. SUBMISSION OF THE MOTION:

1. Appearances of all Counsel and parties are required on all motions and Orders to Show Cause return dates unless otherwise specifically waived by the Court
2. Courtesy copies should not be submitted, unless requested by the Court.
3. Failure to appear at a calendar call may result in denial of any motion made by the non-appearing party and/or the granting of any motion on default when the opposing party fails to appear.
4. In the event a case is already scheduled for a conference with the Court, counsel should endeavor to make the return date of a motion, if possible, on said date.
5. Counsel must advise the Court, in writing, and as soon as practicable, if any submitted motions have been resolved, withdrawn, or if the motion is moot because the case has been settled.
6. All exhibits must be clearly tabbed; no exhibits shall be double sided; no mini-scripts are accepted. **Motions not consistent with this rule will be rejected and returned to counsel.**
7. Motions are to be served and filed in conformity with CPLR § 2214 and 22 NYCRR Part 202.8-b including page limits. Failure to abide by these rules may result in the rejection of the papers.
8. If a matter is not electronically filed, all paper submissions shall be fully and securely bound and shall have a litigation back attached thereto. Orders to Show Cause and Motions greater than two (2") inches thick must be split into multiple volumes and secured by heavy duty staples or ACCO fasteners and clearly marked with a copy of the Order to Show Cause or Notice of Motion on each label (*e.g.*, 1 of 3, 2 of 3, 3 of 3).
9. When submitting proposed orders or judgments in connection with a motion, the same shall be submitted as a separately bound document. Proposed orders or judgments incorporated within motion papers will be considered exhibits, treated as such, and may be disregarded.
10. All papers must be submitted timely at the time the motion is heard. The Court will not consider late papers absent prior Court approval.
11. **No sur-reply affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.**
12. The Court will determine, after submission, whether oral argument is warranted. Upon such determination, counsel for all parties will be

contacted and advised of the new adjourned date for purposes of oral argument.

13. All motions seeking pendente lite relief must include a complete temporary maintenance guidelines worksheet utilizing each party's gross income for the most recent tax year after FICA/Medicare taxes have been deducted.
14. Any motion seeking an award of counsel fees must be supported by a detailed affirmation of services.
15. Counsel and unrepresented parties are required to provide the court with an email address for all parties and counsel with any submitted papers.

C. APPLICATION FOR A STAY OR TEMPORARY RESTRAINING ORDER (TRO):

1. If an Order to Show Cause seeking any injunctive relief, including a stay or TRO, is to be submitted, it must comply with Uniform Rule §202.7(f). **The movant shall first consult with Chambers as to a convenient date and time for counsel to appear with regard to the compliance with Uniform Rule §202.7(f). Subsequently to said consultation, written notice shall be provided to Chambers as well, via the Judge's remote email address.**
2. All attorneys and litigants filing emergency Orders to Show Cause MUST notify the assigned Part (if the case was previously assigned) AND the Matrimonial Clerk SIMULTANEOUSLY with the notice provided to opposing counsel (and the Attorney for the Child(ren), if applicable.) You can copy the assigned Judge and the Clerk on your 202 notice to opposing counsel. The 202 Notice should be faxed to the Matrimonial Clerk at (516) 493-3475 and emailed to the Part's remote email address. If you are seeking relief related to custody or an Order of Protection, please note same in your notice.
3. At any conference of the matter, if an Order to Show Cause seeking any injunctive relief, including a stay or TRO, is submitted or pending, counsel shall advise the Court of the pendency of such application, the return date of such Order to Show Cause and the relief sought.
4. **When filing any emergency application with the Court, ALL parties and counsel MUST appear, IN PERSON, at the time set forth in the 202.7 Notice. The filing MUST be uploaded to NYSCEF prior to the Notice time to allow for proper processing. If serving Notice for an afternoon,**

said Notice should be for 2:00pm so as to insurance staff availability to be heard on that date.

5. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made at a conference with all parties present. Failure to apply for such extension shall result in the automatic *vacatur* of the stay or TRO, unless the Order to Show Cause provides otherwise.
6. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and an affirmation explaining in detail the nature of the emergency. In addition to the foregoing, the movant should be prepared to appear in Court and to make a record before the Court, if the Court requires the same.

D. INTERIM PARTIAL OR FULL SETTLEMENT:

If all or part of a submitted motion is settled, a stipulation shall be forwarded to the Court and filed on NYSCEF if the case is e-filed. The stipulation shall be accompanied by a letter setting forth the date the motion was submitted, what aspects of the Motion have been settled, and what issues remain to be decided. If the motion is resolved, in whole or part, on the record, counsel shall obtain such transcript so that same can be "so ordered", unless the Court otherwise directs.

IV. COURT APPEARANCES

- A. All Court appearances, whether virtual or in-person, including preliminary, compliance, certification, motion, and pre-trial conferences shall be scheduled for a time certain.

If the appearance is in-person, attorneys and litigants must check in with the Court Officer or Part Clerk and complete a sign-in sheet. If counsel must also appear before another Judge in this building, they must advise the Part Clerk or Court Officer where they are and how they can be reached. If counsel must appear before another Judge elsewhere and will be late, they shall advise Chambers and opposing counsel as soon as possible via email to the Judge's remote email address.

All Counsel and litigants are directed to appear for each and every conference (including preliminary, compliance, certification, motion, and pre-trial conferences) at the scheduled time. No individual's presence may be excused by anyone other than the Court.

- B. For each appearance, counsel **MUST** be fully familiar with the facts of the case and fully authorized to enter into agreements, both substantive and procedural on behalf of their clients even if the matter is scheduled for motion submission, all counsel must be prepared to discuss all aspects of the case.
- C. Failure to appear at the call of any calendar or the time of a virtual appearance may result in an inquest or dismissal pursuant to 22 NYCRR § 202.27.
- D. Counsel are advised to confirm all scheduled appearances with their adversary the day before the appearance date to confirm a prompt appearance.
- E. All parties and counsel are REQUIRED to appear TIMELY at the scheduled time for each appearance.
- F. All parties and counsel MUST remember that this is Court, and they must behave in accordance with Court rules with the **utmost** respect & civility to the Court, their adversaries, and all courthouse staff. Failure to abide by this rule may result in sanctions.

V. SANCTIONS

The Court will not consider a sanctions application unless the moving party first seeks withdrawal or discontinuation of the offending act or action or demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

VI. TRIAL RULES: APPLICABLE TO ALL TRIALS AND HEARINGS

- A. A Note of Issue and Statement of Proposed Disposition are to be filed prior to trial. The requisite fee with the County Clerk shall be paid and ensure that the Note of Issue and Statement of Proposed Disposition is submitted to the Matrimonial Clerk who will then assign a calendar number.
- B. After a matter has been certified as trial ready, the Court shall set a date for a pre-trial conference. All pre-trial conferences will be scheduled at least 60 days prior to the trial date. Counsel with knowledge of the case and the parties must attend. There will be no adjournments without the Court's consent. At the pre-trial conference, the Court shall provide for the submission or scheduling of the following:
 - 1. *In Limine* applications must be on notice to all parties returnable at least 5 days prior to the first scheduled trial date.

2. Annotated Statements of Proposed Disposition in which all of the criteria listed in the statute are provided and counsel's position stated as to each such criteria for both equitable distribution and maintenance issues shall be submitted.
3. Evaluations: In the event there are any valuations of a business interest, then a "cash flow" chart shall be submitted by each side, listing counsel's proposal for payment thereof, as well as any other payments claimed due (such as payor's obligations for maintenance, child support, income taxes, etc.).
4. Exhibits: If the parties are not utilizing the Virtual Evidence Courtroom Portal (VEC), the parties must work together to pre-mark exhibits. A single combined exhibit list should be presented to the Court in advance of the proceeding. The Exhibit List must state each pre-marked exhibit number, or letter, and provide a brief description of the Exhibit (Ex. "Exhibit 1 - Summons with Notice"). The list must indicate which exhibits can be admitted into evidence on consent. All other exhibits must be marked for identification. As to those exhibits marked for identification, the Court will address their admissibility *In limine* or during the trial, as may be appropriate.

If utilizing the New York State Electronic Filing System ("NYSCEF"), the exhibit list and exhibits must be uploaded to the though the VEC in advance of the start of the proceeding, pursuant to the trial scheduling order. *Please note that the VEC is a separate tab in NYSCEF. **Exhibits are not to be uploaded to the Document List.***

5. Trial Notebook: **If deemed appropriate by the Court**, based on the facts and circumstances of the particular case, hard copies of exhibits must be received by the Court pursuant to the trial scheduling order. The exhibits must be bound together in a binder or book and separated by tabbed dividers indicating the exhibit number or letter. Two copies of the exhibit binder/book must be provided to the Court. The parties and counsel must come to Court (or appear virtually) on the date of the proceeding with Exhibit Binders/Books identical to those provided to the Court. This will obviate the need to pass papers between counsel, the Court, and Court staff during in-person proceedings. It will also serve to streamline any virtual proceedings. At the conclusion of the trial all exhibits not received into evidence will be removed from notebooks and returned to counsel.
6. A list of proposed witnesses for the Court's information.

7. A list of all expert witnesses with copies of their reports.
8. Marked pleadings to be submitted before opening statements.
9. Net worth statements updated within thirty (30) days.
10. A statement of stipulated facts. (Parties are encouraged to stipulate to facts and/or exhibits).
11. A copy of each proposed exhibit to be provided to the Court Reporter.
12. If deposition transcripts are to be utilized, a copy of the witnesses' deposition transcript should be available to the Court. Counsel for the parties shall consult prior to trial and shall, in good faith, attempt to agree upon the portions of deposition testimony to be offered into evidence without objection. The parties shall delete from the testimony to be read the questions and answers that are irrelevant to the point for which the deposition testimony is offered. Each party shall prepare a list of deposition testimony to be offered to which no objection has been made and a separate list of deposition testimony as to which objections have been made. At least one [1] day prior to trial, or such other time as the Court may set, each party shall submit its list(s) to the Court and other counsel. The Court will rule upon the objections at the earliest possible time, after consultation with counsel.
13. Unless the Virtual Evidence Courtroom is being utilized, both sides shall have available at least four (4) copies of all exhibits (five (5) if there is an Attorney for the Child(ren)), which are expected to be introduced into evidence. If the Virtual Evidence Courtroom is being utilized, the parties must bring at least two (2) copies of evidence for utilization by the witness.
14. Unless the Virtual Evidence Courtroom is being utilized, both sides shall have available at least four (4) copies of all deposition transcripts and prior statements (five (5) if there is an Attorney for the Child(ren)), which are expected to be read into the record or utilized on cross-examination at the trial.
15. Unless the Virtual Evidence Courtroom is being utilized, both sides shall have available at least four (4) copies (five (5) if there is an Attorney for the Child(ren)) of any and all of the following:

- a) relevant orders issued by another court, such as final orders of custody, support, or temporary or permanent order of protection issued by the Family and/or Criminal Courts;
 - b) any order of this Court that referred issues raised in motion practice to the trial of the action;
 - c) any relevant "so-ordered" stipulation of this Court, as well as transcripts of stipulations read into the record in open court during the pendency of the action; and
 - d) any properly executed and acknowledged stipulation or agreement relating to material issues in this action.
16. Counsel are urged to stipulate that any issue relating to an award of counsel and expert fees be resolved by the Court, without testimony, upon the submission of affirmations and other appropriate documentation from counsel.
17. **Custody Forensic Reports and Work Product shall NOT be uploaded to the Virtual Evidence Courtroom. Instead, those exhibits shall be presented in paper format pursuant to the rules outlined above.**
18. Counsel are required to stipulate in writing to any and all relevant material facts that are not and should not be in dispute.
19. On the date the trial is scheduled, counsel are expected to be prepared to discuss settlement of all unresolved issues and to have complied with each of the trial rules set forth herein.
20. On the day before the scheduled trial, counsel are directed to contact the Part Clerk or Chambers to confirm the Court's availability.
21. All trials and hearings shall continue day-to-day until completed, subject to the Court's availability.
22. Objections should be stated without argument, except to simply state the ground therefore, (*e.g.*, hearsay, relevance, etc.). If further argument is appropriate, it will be invited by the Court.

C. CLOSING ARGUMENTS/SUMMATIONS:

1. It shall be determined by the Court (on the first trial day), in consultation with counsel, whether oral closing arguments will be

made, or if a post-trial memorandum will be submitted. If oral arguments will be made, said arguments will not exceed thirty [30] minutes and will be scheduled to begin immediately after the trial has concluded. Counsel for the defendant shall give their closing first, followed immediately by counsel for the child(ren), if any, then by counsel for the plaintiff.

2. If a post-trial memorandum is required, said memorandum shall be submitted by both sides, as well as the attorney for the child(ren) simultaneously, said submission date and page limits will be determined by the Court after consultation with all counsel. The right to submit a post-trial memorandum shall be deemed waived if not timely submitted to the Court. Said post-trial memorandums shall contain the following clearly delineated sections:
 - a) Chronological procedural history of the action, including copies of all relevant orders, written stipulations, and transcripts of stipulations placed on the record;
 - b) Recitation of the issues to be determined;
 - c) In-depth summary of the testimony of each witness;
 - d) Summary of the findings of any expert report received in evidence;
 - e) Summary of the exhibits in evidence;
 - f) Detailed recitation of counsel's contentions as to the testimony and exhibits in evidence; and
 - g) Applicable law.
3. Post-trial memorandums will be marked as Court Exhibits and shall be part of the record.
4. A copy of each side's, and if applicable, the child's and/or children's post-trial brief shall be served on all other parties, simultaneous with such filing with the Court. Post-trial briefs should be uploaded to the NYSCEF Document List – NOT the Virtual Evidence Courtroom.
5. Responses to the post trial memorandums are **prohibited** and will not be considered.

6. The post-trial memorandums shall have a table of contents. Failure to provide such table of contents may result in the Court not considering such post-trial memorandum.
7. Proposed Judgment and Findings of Fact and Conclusions of Law are to be submitted within sixty (60) days after the Court renders its decision. The submission of the Divorce Packet will NOT be adjourned unless expressly permitted by the Court for good cause shown.
8. Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc. at the end of a trial, unless the Court reserves its decision. Exhibits, pleadings, transcripts, etc. not retrieved within thirty (30) days after the Court renders a decision shall be disposed of.

VII. ALTERNATIVE DISPUTE RESOLUTION

- A. The Court offers the Special Masters Program, Mediation, and Neutral Evaluation options.
- B. Participation in any of these programs does not stay the matrimonial actions.
- C. The Court will offer one of these programs at the appropriate time for the appropriate case.
- D. Counsel is not permitted to request a specific mediator.

VIII. MISCELLANEOUS

- A. CONFERENCES/TRIAL - If there are any outstanding motions (submitted or pending) at the time of the conference/trial, the Principal/Assistant Law Clerk and/or Judge must be so informed of same that day; the submission date must be provided by counsel. Copies of such motions should be available to the Court at the time of such conference.
- B. ATTORNEYS OF RECORD - Attorneys who have appeared in the matter are to make all appearances until they are relieved by the Court or a fully executed Consent to Change Attorney form has been filed with this Part and with the Clerk of the Court. **Counsel no longer on the case shall remove themselves from NYSCEF immediately.**
- C. STAFF - The Court functions through the aid and assistance of the courtroom and Chambers staff. **They are expected to treat attorneys, litigants, and**

others in a dignified and civil manner; as well they are to be treated in a civil and professional manner.

- D. Counsel and the Attorney for the Child(ren) are reminded that the Attorney for the Child(ren) acts in the role of counsel for the child(ren). As such, the Attorney for the Child(ren) is bound by the same ethical and procedural rules as counsel for the parties. ***Ex parte*** communications between the Attorney for the Child(ren) and the Court will not be permitted.
- E. All Counsel shall familiarize themselves with Microsoft Teams, NYSCEF and the VEC.
- F. At the conclusions of a case (whether by Trial Decision, Stipulation, or Discontinuance) all attorneys MUST return a Custody Forensic Report and the Forensic's Work Product to chambers within five (5) business days and destroy any copy that may have been made. Failure to do so may result in sanctions or the filing of a grievance.

REQUEST FOR ADJOURNMENT FORM
Email: Judge _____ remote@nycourts.gov

**THIS FORM MUST BE FILLED OUT COMPLETELY
INCOMPLETE FORMS WILL BE DISREGARDED**

CASE NAME _____ INDEX# _____

RJI DATE: _____ DATE ISSUE JOINED: _____ LAST COURT APPEARANCE: _____

DATE ON COURT CALENDAR: _____

REQUESTED (at least 3) ADJ. DATES: 1) _____ 2) _____ 3) _____ 4) _____

MOTION, CONFERENCE, OR OTHER _____ IF MOTION, NATURE OF RELIEF SOUGHT

REASONS FOR ADJOURNMENT: (Affirmation of Engagement must be attached if applicable)

DISCOVERY COMPLETED (Y/N): _____ WAS N/I FILED?: _____ DATE TO FILE N/I: _____

WERE PARTIES ADVISED OF REQUESTED ADJOURNMENT DATES PRIOR TO REQUEST? _____

ON CONSENT OF OPPOSING COUNSEL? _____

ATTORNEY REQUESTING ADJOURNMENT:

NAME: _____ PHONE: _____ FAX & EMAIL: _____

ADVESARY'S CONTACT INFORMATION:

NAME: _____ PHONE: _____ FAX & EMAIL: _____

ADVESARY'S CONTACT INFORMATION:

NAME: _____ PHONE: _____ FAX & EMAIL: _____

**ALL REQUESTS MUST BE RECEIVED VIA EMAIL BEFORE 2:00PM OF THE BUSINESS DAY
PRIOR TO THE SCHEDULED APPEARANCE DATE.**

**FORWARD A CONFIRMING LETTER TO CHAMBERS INDICATING THE ADJOURN DATE
AND TIME**