

**SUPREME COURT - NASSAU COUNTY**  
**400 County Seat Drive, Mineola, New York 11501**

**IAS PART 26 – PART RULES & PROCEDURES** (amended as of 01-02-19)

**Justice:** HON. JOSEPH H. LORINTZ  
**Principal Law Clerk:** ERIC P. MILGRIM, ESQ.  
**Assistant Law Clerk:** IAN STEINBERG, ESQ.  
**Part Clerk:** ELLEN JOHNSON

**Chambers Phone:** (516) 493-3432  
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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.

**I 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 3:00 p.m.** of the day preceding the scheduled conference or motion. No requests for an adjournment will be entertained without all 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. 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. Letters confirming approved adjournments shall state that the Court has adjourned the conference or motion on consent of the parties to the specified date, and shall contain the full names of both parties, the index number, a notation indicating the current date the matter is on the Court's calendar, and that all parties have been simultaneously copied.
4. Adjournment requests which are left on the Chamber's Voice Mail

shall be **disregarded**.

5. 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.

**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 § 202.16 (f) concerning conferences.
2. In addition to scheduling a Certification 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. No adjournment of discovery as per the Preliminary Conference Order shall take place without prior Court permission. Counsel is advised to seek Court permission before adjourning any deposition date specified in the Preliminary Conference Order.
4. Discovery deadlines, Certification deadlines, and Note of Issue deadlines, will be strictly enforced. Deadlines may not be extended, absent prior approval by the Court.

**II 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 Pro se parties **are** required on all motions and Orders to Show Cause unless otherwise specifically waived by the Court. There are no submitted motions without an appearance in this Part.
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. All 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).
8. 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.
9. All papers must be submitted timely at the time the motion is heard. The Court will not consider late papers absent prior Court approval. No sur-reply affidavit, affirmation, memorandum of law or letter will be

accepted or considered by the Court without leave of the Court.

10. Motions are to be served and filed in conformity with CPLR § 2214.
11. 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.
12. All motions seeking *pendente lite* relief must include a completed temporary maintenance guidelines worksheet utilizing each party's gross income for the most recent tax year after FICA/Medicare taxes have been deducted.
13. Any motion seeking an award of counsel fees must be supported by a detailed affirmation of services.
14. Counsel are required to provide the court with **SELF-ADDRESSED, STAMPED** envelopes with the submitted papers in order to facilitate delivery of the court's decision.

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) and written notice shall be given to Chambers as well.**
2. 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, the relief sought and whether an immediate hearing is sought.
3. 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.
4. 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 proposed order with notice of settlement (on at least ten [10] days notice) or a signed waiver of settlement shall be submitted with a copy to be conformed and a self-addressed, stamped envelope. Such order 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. A copy of the stipulation settling such issues shall be forwarded to the Court. 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.

**III COURT APPEARANCES**

- A. All Court appearances, including preliminary, compliance, motion and status conferences shall be scheduled for either 9:30 a.m. or 2:00 p.m. and any other time the Court may deem appropriate.
- B. Attorneys and “Pro Se” 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, they must advise the Part Clerk or Court Officer where they can be reached. All Counsel and litigants are directed to appear for each and every conference (including preliminary, compliance, certification and pre-trial conferences). No individual’s presence may be excused by anyone other than Chambers.
- C. All conferences will be held in the order in which **all** attorneys and/or Pro se litigants have checked in.
- D. Counsel who appear in this Part must be fully familiar with the case in regard to which they appear and fully authorized to enter into agreements, both substantive and procedural on behalf of their clients.
- E. Failure to appear at the call of any calendar may result in an inquest or dismissal pursuant to 22 NYCRR § 202.27.
- F. Counsel are advised to confirm all scheduled appearances with their adversary the day before the appearance date to confirm a prompt appearance.

**IV COMMUNICATION WITH CHAMBERS**

**A. INQUIRIES**

- 1. In all communications with Chambers by letter, the title of the action,

full names of the parties and index number shall be set forth, with copies simultaneously delivered to all counsel. ***Ex parte communications will be disregarded.***

2. 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.
  3. The Court will not accept telefax communications or submissions without prior permission.
  4. The court shall not accept ***ex parte*** telephone communications on substantive issues.
  5. E-mail correspondence with Chambers staff is not permitted unless prior authorization is obtained.
  6. Attorneys and/or Pro se litigants shall not call Chambers during the daily lunch hour which is from 1:00 p.m. to 2:00 p.m.
- 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.

## **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 within thirty (30) days after certification, unless otherwise specified in the Certification Order. Counsel for plaintiff shall pay the requisite fee with the County Clerk 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. Counsel should note that the Matrimonial Clerk will not accept a Note of Issue without a Statement Of Proposed Disposition being annexed thereto (22 NYCRR §202.16(h)).
- B. After a matter has been certified as trial ready, the Court may set a date for a pre-trial conference. All pre-trial conferences will be scheduled approximately 30 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 20 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 or increased earning capacity, 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: A list of all exhibits for each party indicating whether such exhibits are stipulated to be in evidence or 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.
5. Trial Notebook: **If deemed appropriate by the Court**, based on the facts and circumstances of the particular case, parties shall submit notebooks two (2) weeks prior to trial with all listed exhibits separately and consecutively tabbed [numbers for Plaintiff and letters for Defendant], with the original documents for the witnesses and a copy for the Court. [To expedite the trial a similarly marked notebook should be provided for the Court.] 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. All trial exhibits, whether stipulated or contested on admissibility, should be pre-marked by the Court Reporter at least one (1) day prior to trial.

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. Both sides shall have available at least four [4] copies of all exhibits ([5] if there is an Attorney for the Child(ren)) which are expected to be introduced into evidence.
14. Both sides shall have available at least four [4] copies of all deposition transcripts and prior statements ([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. Both sides shall have available at least four [4] copies ([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. Counsel are required to stipulate in writing to any and all relevant



material facts that are not and should not be in dispute.

18. 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.
19. On the day before the scheduled trial, counsel are directed to contact the Part Clerk or Chambers to confirm the Court's availability.
20. All trials and hearings shall continue day-to-day until completed, subject to the Court's availability.
21. 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.
22. 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.
23. Closing Arguments/Summations: 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.

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 to 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) a chronological procedural history of the action, including copies of all relevant orders, written stipulations, and transcripts of stipulations placed on the record;
- b) a recitation of the issues to be determined;
- c) an in depth summary of the testimony of each witness;
- d) a summary of the findings of any expert report received in evidence;
- e) a summary of the exhibits in evidence;

- f) a detailed recitation of counsel's contentions as to the testimony and exhibits in evidence; and
- g) applicable law.

Post trial memorandums will be marked as Court Exhibits and shall be part of the record.

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. Responses to the post trial memorandums are prohibited and will not be considered. The Court is to be provided with the original of each post trial memorandum. The post trial memorandums shall have a table of contents. Failure to provide such table of contents will result in the Court not considering such post trial memorandum.

- 16. 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 MISCELLANEOUS

- A. CONFERENCES/TRIAL - If there are any outstanding motions (submitted or pending) at the time of the conference/trial, the Principal 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 Part 26 and with the Clerk of the Court.
- 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.