

**NASSAU COUNTY FAMILY COURT
IAS PART 1 – PART RULES & PROCEDURES
(REVISED 4/24/19)**

Justice: HON. LINDA K. MEJIAS
Court Attorney: KRISTEN L. REANY, ESQ.
Secretary: MELISSA PEREZ
Part Clerk: MARY KROMER
Fax: (516) 493-3961

These rules are in addition to the Uniform Rules for the New York State Trial Courts and the Local Rules of Court. Failure to comply with any rules or orders of the Court may result in preclusion and/or sanctions, which may include dismissal of the petition(s) and/or the entry of default, without further notice.

I. COURTROOM DECORUM/APPEARANCES

- A.** All Counsel and litigants (whether represented by Counsel or unrepresented) must check-in with the Court Officer of this Part upon their arrival to the Courthouse.
- B.** There shall be no cell phone use, including passive viewing, in the courtroom unless expressly permitted by the Court and strictly for scheduling purposes.

II. ADJOURNMENTS

A. Motions and Conferences:

- 1. Any and all applications to adjourn any scheduled date with this Court, including, but not limited to conferences, motions, or submissions of papers, must be ON CONSENT of the opposing party and the Attorney for the Child(ren), if one is assigned, and such requests must be made using the REQUEST FOR ADJOURNMENT FORM, which must be received by Chambers via facsimile **by 2:00 p.m.** on the business day prior to the scheduled date. All applications for adjournments **MUST** be made using the Request for Adjournment Form which can be obtained through the OCA website or through the Nassau County Family Court Clerk's Office.

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 return date shall be summarily denied, unless the Court is advised of extraordinary circumstances, which will be taken into consideration.

If the application is based on Counsel's actual engagement on another matter,

an Affirmation of Actual Engagement, in conformity with 22 N.Y.C.R.R. Part 125, must accompany the Request for Adjournment Form. If the application is granted by the Court, a letter confirming same shall be faxed to Chambers and copied to the opposing party and the Attorney for the Child(ren), if one is assigned. The matter will not be adjourned until the confirmation is received by Chambers.

2. Letters confirming adjournments shall state that the Court has adjourned the scheduled date on consent of the parties to the specified date, and shall contain the full names of both parties, the Master File Number, the Docket Number, as well as a notation indicating the current date the matter is on the Court's calendar, and that all parties have been copied.
3. Adjournment requests which are left on the Chamber's voice-mail shall be disregarded.

B. Scheduled Pretrial and Trial/Hearing Dates:

1. Adjournments of scheduled pretrial and trial/hearing dates will not be granted absent a compelling reason for same and upon compliance with the procedure set forth in subparagraph "A" of this provision.

III. MOTIONS

A. Submission of Motions

1. Motions shall be filed at least (5) days prior to the return date. Appearances of all **Counsel and parties** are required on all motion return dates, including motions made upon orders to show cause, unless specifically waived by the Court.

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.

2. All papers shall be securely and neatly fastened, and all exhibits must be clearly demarcated; a) Papers will be considered properly bound if secured by Heavy Duty Staples, or ACCO Clips (no Mechanical Binding); b) Papers greater than 2" thick must be split into multiple volumes and secured by ACCO Clips only (no staples or Mechanical Binding and clearly marked with a copy of the Order to Show Cause or Notice of Motion on each and a

label (e.g. 1 of 3, 2 of 3, 3 of 3); and c) If using ACCO fasteners (3 ½" capacity), limit the documents to no larger than 2" thick. If using small ACCO fasteners (2" capacity), limit the document size to 1" thickness. Do not tape the clip in place. Papers secured by Binder Clips and/or rubber bands will not be accepted. Motions not consistent with this rule **WILL BE REJECTED** and returned to the moving party and/or the moving party's attorney.

Except for good cause shown, no affidavit or affirmation upon a motion or in response or reply shall exceed fifteen (15) pages (double spaced) in length. Affidavits and/or affirmations in excess of the above limits will be returned to Counsel to be made compliant with the above limit.

3. Motions are to be served and filed in conformity with C.P.L.R. §2214. All motions must be organized in such a manner so that each branch of the motion stated in the Notice of Motion or Order to Show Cause is preceded by a number or letter. Said number/letter designation shall be used in the supporting affirmations and affidavits and shall correspond to the number/letter used for each branch as set forth in the Notice of Motion or Order To Show Cause.
4. No affidavit, affirmation, memorandum of law or letter in sur-reply will be accepted or considered without leave of the Court.
5. 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. Order to Show Cause requesting a Stay or Temporary Restraining Order or Temporary Order

1. Any Order to Show Cause seeking any injunctive relief, including a stay or temporary restraining order (TRO), must be made in accordance with 22 N.Y.C.R.R. § 202.7(f).
2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made on the return date of the motion. 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.
3. An "Emergency" Order to Show Cause requires a special affidavit based upon personal knowledge and 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 same.

IV. COURT APPEARANCES

- A. All Court appearances, unless otherwise specified or directed by the Court, shall be scheduled for 9:00 a.m. Please be prompt so as to avoid any unnecessary delays of the calling of the matter.
- B. **All parties** and **Counsel** shall appear at **each and every** scheduled Court date, unless otherwise directed by the Court.
- C. Attorneys and litigants must alert the Court Officer of their presence.

If Counsel must also appear before another Judge, Counsel must advise the Part Clerk or Court Officer where Counsel can be reached.

V. COMMUNICATION WITH CHAMBERS

- A. In all communications with Chambers by letter, the title of the action, full names of the parties, the date on which the matter is scheduled on the Court's calendar, and both the Master File and Docket Numbers shall be set forth, with copies simultaneously delivered to all Counsel. *Ex parte* communications will be disregarded and discarded.
- B. Copies of correspondence between Counsel shall not be sent to the Court. Such copies shall be discarded.
- C. The Court will not accept telefax submissions of papers, other than correspondence in conformance with these Part Rules, without prior permission. All communications via facsimile with Chambers shall be limited to three pages, unless otherwise permitted by the Court.
- D. The Court shall not accept or participate in any form of *ex parte* communications on substantive issues.

VI. SANCTIONS

The Court will not consider a sanctions application unless the moving party first seeks withdrawal, or discontinuation of the offending act, action, or demands

required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

VII. TRIAL RULES

- A. All trials and hearings shall continue **DAY-TO-DAY** (where practicable) until completed, subject to the Court's availability. The parties shall order the minutes on a daily-basis so that same may be made available to the Court.
- B. **Pre-Trial Conference:** After a matter has been set down for trial/hearing, the Court may set a date for a pre-trial conference. Pre-trial conferences will be scheduled within fourteen (14) days prior to the trial/hearing date, which shall not be adjourned without the prior consent of the Court. Counsel with knowledge of the case and the parties must attend.
- C. **Items Due Two (2) Business Days Prior to the Commencement of Trial:**
1. ***In limine* Motions:** *In limine* applications must be on notice to all parties, returnable at least five (5) days prior to the first scheduled trial date.
 2. **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. Both sides shall have available at least four (4) copies of all exhibits (five [5] copies if there is an Attorney for the Child[ren]), which are expected to be introduced into evidence.
 3. **Proposed Witness(es) List:** A list of proposed witnesses, the order in which they will testify and the estimated length of their testimony.

Expert Witnesses: Documentation in compliance with C.P.L.R. §3101(d) shall be provided to the Court and exchanged between the parties with regard to any expert, other than a court-appointed neutral expert, that a party intends to call at trial.
- D. **On the First Day of Trial:**
1. 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
 2. **Trial Notebooks:** Parties shall submit a **trial notebook** with all listed

exhibits separately and consecutively tabbed [numbers for Petitioner and letters for Respondent], with the original documents for the witnesses and a copy for the Court. At the conclusion of the trial all exhibits not received into evidence will be removed from notebooks and returned to Counsel.

2. **Stipulated Facts:** Counsel are required to stipulate in writing to any and all relevant material facts that are not and should not be in dispute, which shall be read into the record upon the conclusion of opening statements, if any are made.
5. **Objections:** Objections during trial should be stated without argument except to simply state the ground therefor, e.g., hearsay, relevance, etc. If further argument is appropriate, it will be invited by the Court.

E. **Closing Arguments/Summations and Memoranda of Law:**

1. **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. Respondent, if unrepresented, or Counsel for the Respondent shall give their closing first, followed immediately by the Attorney for the Child(ren), if any, then by Petitioner, if unrepresented, or Counsel for the Petitioner.
2. **Post Trial Memoranda of Law:** If a post trial memorandum is required, said memorandum shall be simultaneously submitted by both sides, and the Attorney for the Child(ren), if any, on the submission date to be determined by 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. Post trial memoranda will be marked as Court Exhibits and shall be part of the record.

A copy of each side's post-trial submissions, and if applicable, the child's and/or children's, shall be served on all other parties on the same day of such filing with the Court. Responses to the post trial memoranda are prohibited and will not be considered.

Said post trial memoranda shall contain the following clearly delineated sections, unless waived by the Court:

- (a) a chronological procedural history of the action, including copies of all relevant orders;
- (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.