

Hon. Ellen Tobin, A.J.S.C.

Supreme Court ~ Nassau County
100 Supreme Court Drive, Mineola, New York 11501
IAS Part 35 (3rd floor)
Chambers: (516) 493-3168
Courtroom: (516) 493-3171
JudgeTobinRemote@nycourts.gov

Principal Law Clerk: Yvonne R. Marin, Esq.
Secretary: Madison Heath
Part Clerk: Monica Connelly

Updated as of March 1, 2024

These rules are in addition to the New York State and Local Rules of Court:
<https://ww2.nycourts.gov/rules/trialcourts/202.shtml>

Counsel and self-represented litigants must be familiar and comply with all applicable rules.

MATRIMONIAL CASES

1. Please refer to the Uniform Part Rules for the Supreme Court, Nassau County Matrimonial Court: [MCUniformRules.pdf \(nycourts.gov\)](#)
2. Court appearances in matrimonial cases in this Part will be held on Mondays, Tuesdays and Wednesday mornings.
3. Litigants are expected to appear at all court dates unless they are specifically excused.
4. See Section “A” below regarding communications with the Court and adjournment requests.
5. The Court is to be immediately advised of the resolution or withdrawal of (a) a motion or portion of a motion that is *sub judice*, or (b) a case with motions that are *sub judice*. If resolved by stipulation, the stipulation must specify the withdrawal or resolution of the motion and the motion sequence number.
6. Trials will be held day-to-day until completion.

IAS CASES

A. Communications with the Court and Adjournment Requests

1. **No Ex Parte Communications.** The Court does not accept *ex parte* communications or attempts to litigate by email. Such communications will be disregarded.
2. **Adjournment Requests.** Requests for adjournments of conferences and court appearances shall be made in writing using Judge Tobin's Adjournment Request form: <https://www.nycourts.gov/LegacyPDFS/COURTS/10jd/nassau/pdf/TobinAdjReq.pdf>. The requesting party shall confer with all counsel and self-represented parties and fill out the form completely. Requests shall be submitted by email to JudgeTobinRemote@nycourts.gov, copying all counsel and self-represented parties, as least 2 business days before the scheduled appearance. The Court will notify counsel and self-represented parties via email if the adjournment is granted. If granted, the party that initiated the request shall then file on NYSCEF a confirmation letter stating the new date/time. Unless/until the Court grants the adjournment, counsel and self-represented parties are required to appear on the scheduled date/time.
3. **The Preliminary Conference Order.** All parties are required to abide by the deadlines in the Preliminary Conference ("PC") Order. The Court's consent is required for adjournments of (a) the deadline to complete depositions, and (b) the end-date for all disclosure. Requests to adjourn such deadlines must be made in writing as soon as possible upon becoming aware of the need for the request. Counsel and self-represented parties must provide the (x) reason(s) for requesting the adjournment; (y) whether the other side consents; and (z) proposed date for the new deadline.
4. Unless otherwise directed by the Court, all other requests and issues shall be raised via correspondence filed on NYSCEF.
5. The Court does not accept correspondence sent by facsimile.
6. The Court does not accept adjournment or other substantive requests left on Chamber's voicemail. Such communications will be disregarded.

A. Conferences and Court Appearances

1. Please inform the Court of your preferred pronoun and title/honorific if you would like to do so.
2. Conferences and other court appearances will be held in person. Requests for virtual conferences will be considered on a case-by-case basis.
3. Attorneys and self-represented parties must be on time and check in with the Part Clerk upon arrival in the Courtroom.
4. All attorneys (including *per diem* and covering counsel) and self-represented

parties must be (a) fully familiar with and knowledgeable about the action; (b) prepared to address all matters likely to arise at the proceeding; and (c) authorized to bind the party they represent consistent with the proceedings (*e.g.*, be able to enter into a discovery or briefing schedule).

5. In the event you are going to be late or are unable to appear for a scheduled conference due to exigent circumstances, please immediately notify, by telephone, (a) opposing counsel and self-represented parties, and (b) the Part Clerk at (516) 493-3171.
6. Requests for an interpreter are to be made to the Part Clerk at least 7 days prior to the scheduled appearance.
7. All counsel (including *per diem* and covering counsel) and self-represented parties shall be fully familiar with and knowledgeable about the Court's Alternative Dispute Resolution (ADR) programs. Further information and forms are available on the Court's ADR webpage:
<https://ww2.nycourts.gov/courts/10jd/nassau/ADR.shtml>
8. All attorneys, litigants and other participants are expected to be courteous and respectful in all interactions with each other and the Court.

A. E-Filing Requirements and Motions

1. **E-filing Rules.** Counsel and self-represented litigants must be familiar with the statewide e-filing rules. *See* 22 NYCRR §§ 202.5-b, 202.5bb:
<https://ww2.nycourts.gov/rules/trialcourts/202.shtml#05b>
2. **NYSEF Email Addresses.** The Court will send emails to the NYSCEF email address(es) of record for each party in the case. Counsel must ensure that their respective email addresses are accurate and up-to-date, including removing representation from NYSCEF when appropriate.
3. **Electronic Filing Required.** All documents in mandatory e-filed cases, except documents subject to the opt-out provisions of NYCRR § 202.5-bb or where e-filing consent has been withheld, must be filed through NYSCEF. All submissions to the Court must be electronically filed (except as set forth herein).
4. **Affidavits of Service.** Affidavits of Service that are uploaded to NYSCEF must identify the individual/entity on whom/which service was made.
5. **Exhibits.** Exhibits must be uploaded to NYSCEF individually, with each exhibit clearly identified and described (*e.g.* Affidavit of Defendant, Statement of Net Worth, Lease Agreement, etc.).

6. **“Working Copies” Required.** Counsel and self-represented litigants MUST provide “working copies” of all papers filed in connection with electronically filed motions and order to show cause (“OTSC”) applications. *See* 22 NYCRR §§ 202.5-b, 202.8-a: <https://ww2.nycourts.gov/rules/trialcourts/202.shtml#05b>.

The working copies should be double sided, if practicable, and include external exhibit tabs, and be mailed or delivered to Part 35 on or before the motion return date. Working copies must include the index number, motion sequence number and return date in the caption section. Failure to provide working copies in accordance with this rule may delay submission of the motion or OTSC application.

A. Confidentiality Orders and Subpoenas.

1. **Model Confidentiality Order.** Any proposed order regarding the exchange of confidential information shall be based on the model *Stipulation and Order for the Production and Exchange of Confidential Information* (the “Model Order”): https://www.nycourts.gov/LegacyPDFS/RULES/trialcourts/Appendix%20B_Redacted.pdf
2. **Deviations from the Model Order.** If the parties propose deviating from the Model Order, they shall file (a) a copy of the parties’ proposed confidentiality order; (b) a redline of the document showing the proposed deviations against the Model Order; and (c) a letter to the Court explaining the reasons for the proposed deviations.
3. **Issuance of Subpoenas.** Requests for issuance of subpoenas seeking documents from a library, municipality or state agency must comply with CPLR 2307. Otherwise attorneys are reminded of their authority to issue subpoenas under applicable law.

A. Discovery Disputes; Pre-Motion Conferences Required

1. Parties wishing to file a motion concerning discovery must first request a pre-motion conference with the Court. No discovery motion may be filed in the absence of good-faith efforts to resolve the dispute and a pre-motion conference (unless the Court directs otherwise).
2. A party wishing to raise a discovery dispute with the Court must first meet and confer in good faith with the other side(s) about the issue(s) *prior to* raising it with the Court, in accordance with 22 NYCRR § 202.7. A *pro forma* letter does not meet the Rule’s requirements. There must be substantive communications between counsel and self-represented litigants regarding the alleged discovery deficiencies or noncompliance, on one hand, and the claimed compliance or reason(s) for noncompliance, on the other.

3. If the parties are unable to resolve the dispute, then the party wishing to make the motion is to e-file a letter, not to exceed 3 pages, succinctly describing the contemplated motion and the grounds for the same, and the efforts that have been made to resolve the issue. Any opposing party should then file a letter, not to exceed 3 pages, setting forth its position, within 3 business days after the request is filed. The Court will determine whether to hold a pre-motion conference. Working copies are not necessary unless the Court directs otherwise.
4. Parties should seek relief in accordance with these procedures in a timely fashion, including seeking relief with sufficient time to obtain a ruling and complete any remaining or further discovery that may be ordered in advance of the discovery end date (as set forth in the PC Order).

A. Motions and Order to Show Cause Applications

1. **Compliance with 22 NYCRR Part 202.** All motions and OTSC applications (including the form and length of such papers) shall comply with Part 202 of the Uniform Civil Rules for the Supreme Court and the County Court.
2. **Reply Papers.** Replies are NOT permitted on OTSC applications in IAS cases.
3. **Sur-reply papers are prohibited.** Sur-replies are NOT permitted on any application and will not be read or considered. *See* 22 NYCRR § 202.8-c.
4. **Limited Use of Orders to Show Cause.** Applications should be brought by order to show cause only when there is (a) a genuine urgency (*e.g.*, applications for provisional relief); (b) a stay is requested; (c) it is mandated by statute; or (d) by leave of Court. *See* 22 NYCRR § 202.8-d.
5. **Exhibits.** In any motion or OTSC application, the moving party shall designate exhibits by number; the opposing party by letter. Exhibit numbers/letters should be continuous by party – *i.e.*, not begin anew for subsequent papers submitted by the same party within the same motion sequence.
6. **Citations to Exhibits.** References to exhibits longer than 10 pages shall indicate the page number (or Bates number) on which the cited information is contained.
7. **Return Dates.** Motions and OTSC applications may be marked returnable on any day of the week, and are on submission only (*i.e.*, no appearance is required on the return date), unless the Court directs otherwise.
8. **Oral Argument on Motion and OTSC Applications.** Parties may request oral argument by filing a letter on NYSCEF at any time on or before the return date. The Court will determine whether the argument will be heard and, if so, will advise counsel and self-represented parties of the argument date and time.

9. **Emergency Applications.** Emergency applications, including for temporary injunctive relief (“Emergency Applications”), must comply with 22 NYCRR § 202.7(f). Absent extraordinary circumstances that will result in significant prejudice (which must be set forth in detail in a supporting affidavit or affirmation), the moving party must advise opposing counsel (or the opposing party, if counsel has not appeared) by email at least 24 hours in advance of the date/time set for presenting the Emergency Application to the Court. The Court, in its discretion, may dispense with the 24-hour notice requirement in the event of a true emergency.
10. **Adjournments.** Adjournments of motion return dates are governed by 22 NYCRR 202.8(e).
11. **Immediate Notice of Resolution or Withdrawal.** The Court is to be advised immediately of the resolution or withdrawal of (a) a motion or portion of a motion that is *sub judice*, or (b) a case with motions that are *sub judice*. If resolved by stipulation, the stipulation must specify the withdrawal or resolution of the motion and the motion sequence number.
12. **Motions for Default Judgment.** A party seeking a default judgment must proceed by way of a motion, and NOT by OTSC. The motion papers shall provide all of the required information, which is listed (for reference) in the *Checklist for Default Judgments*:
<https://www.nycourts.gov/LegacyPDFS/COURTS/10jd/nassau/pdf/TobinChklist.pdf>
13. **Summary Judgment Motions:**
 - a. Summary judgment motions must be made within 90 days of the filing of the note of issue.
 - b. Parties are referred to Rule 202.8-g of the Uniform Civil Rules for the Supreme Court and the County Court regarding statements of material facts as to which a party contends there is no genuine issue to be tried (a “Statement of Material Facts”).
 - c. Where a party submits a Statement of Material Facts – whether in a brief or in a separate statement – each statement must be followed by citation to evidence in the record to support the contention.

A. Trials and Hearings

1. **Requests to Charge.** Counsel must submit a complete list of requested jury charges, drawn from the current Pattern Jury Instructions (PJI). Requests to charge must be submitted in Microsoft Word format to

JudgeTobinRemote@nycourts.gov by the date selected at the Pre-Trial Conference (and, in any event, at least 48 hours prior to the Charge Conference). Where the requested charge comes directly from the PJI, only the PJI title, section number and page number need to be provided. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted indicating the deviations, and any supporting legal authority.

2. **Proposed Verdict Sheet.** A Proposed Verdict Sheet, jointly prepared by all counsel and self-represented parties, typewritten and in final form for presentation to the jury, shall be submitted in Microsoft Word via email by the date selected at the Pre-Trial Conference (and, in any event, at least 48 hours prior to the Charge Conference). If counsel and self-represented parties cannot agree on the questions to be posed to the jury prior to the Charge Conference, each side will present its own Proposed Verdict Sheet, which must be in Microsoft Word format and submitted to the Court's Remote email address.
3. **Motions In Limine** shall be made on at least 7 days' notice to opposing counsel and self-represented litigants and at least 7 days prior to the start of trial. Counsel shall provide copies of all case law they are relying on in a motion in limine or in opposition thereto.
4. **Pre-Marking Exhibits.** Prior to trial (a) counsel shall confer in good faith in an effort to agree on the exhibits to be offered into evidence without objection, and (b) each side shall mark its exhibits into evidence, subject to Court approval, as to those to which no objection has been made. All exhibits not consented to shall be marked for identification only. The Court will rule on the objections to the contested exhibits at the earliest possible time. Exhibits not previously identified, which are to be used solely for credibility or rebuttal, need not be pre-marked.
5. **Deposition Transcripts.** Prior to trial, counsel shall confer in good faith in an effort to (a) agree on the portions of deposition testimony to be offered into evidence without objection, and (b) resolve objections regarding the use of corresponding video recording (if any). The parties shall delete from the testimony to be read questions and answers that are irrelevant to the point for which the deposition testimony is offered. Each party shall prepare lists of (x) the deposition testimony to be offered by it as to which no objection has been made, and (b) the deposition testimony as to which objection has been made. At least 10 days prior to trial, or such other time as the Court may set, each party shall submit these lists to the Court and other counsel, together with copies of the portions of the deposition testimony as to which no objection has been made and, if applicable, the corresponding video recordings. This Rule does not apply to portions of deposition testimony and corresponding video recordings to be used solely for impeachment or credibility purposes.
6. **Jury Contact.** Counsel and self-represented litigants are not to read from any pleading or other document during jury selection, nor may counsel refer to any

specific amount of money being sought. Counsel and self-represented litigants are not to discuss any aspect of the law with the jury.

7. **Reading of Exhibits.** If counsel intends to use/read from an anticipated exhibit or demonstrative item during Opening Statements, counsel is to advise the Court of the same prior to the start of jury selection.
8. **Objections.** Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating “Objection.” Speaking Objections are prohibited. If the Court requires further explanation of the Objection, the Court will ask for further explanation or invite counsel to approach at side bar.
9. **Use of Video Recordings.** A party who intends to use a video recording at trial shall submit a copy of the same and a corresponding transcript, if applicable, to the Court at least 2 weeks prior to the scheduled trial date, to allow the Court sufficient time to rule on admissibility and objections regarding the same (if any).
10. **Displays and Monitors.** The Court is not able to provide electronic devices or support. Counsel and self-represented litigants must bring all equipment they plan to use during the trial (*e.g.*, screens, monitors, etc.).
11. **Disposal of Trial Documents.** Trial counsel are responsible for taking back all exhibits, pleadings, transcripts, etc., within 30 days after the end of trial, unless, in the case of non-jury trials, the Court reserves its decision. In all cases, exhibits, pleadings, transcripts, etc., not retrieved within 60 days from the conclusion of the jury trial or after the Court renders a decision in a non-jury trial, will be disposed of.
12. **Malpractice “Departures.”** In jury trials involving claims of professional negligence, no later than the next trial session after the party “rests,” or such other time as the Court may direct, each party-plaintiff shall furnish the Court and all counsel with a list of proposed departures from the standards of applicable care that the party asserts were testified to by its expert(s) or other witnesses. Where such testimony has been transcribed, page references are required.