

**HON. MARGARET GARVEY, J.S.C.**

Rockland County Courthouse  
1 South Main Street  
New City, New York 10956-3512  
Chambers tel. #: (845) 483-8334  
Chambers fax #: (845) 483-8141

Principal Law Clerk: Tama Suzanne Monoson (845) 483-8333  
Secretary: Pat Sansone (845) 483-8334  
Part Clerk: Eileen Dillon (845) 483-8335

**I. COMMUNICATIONS WITH THE COURT**

A. Correspondence.

Correspondence to the Court shall, without exception, be copied to all adversaries (counsel and pro se litigants) and must reflect the Index Number of the action to which it relates. Correspondence between counsel(s) and/or pro se litigants shall not be copied to the Court unless there is some judicial purpose to be served by transmitting copies to the Court.

In E-Filed matters, any and all correspondence sent to the Judge must be electronically filed, otherwise it will not be considered. If the matter is an E-Filed matter, and the subject of the correspondence requires immediate attention (letter requesting an adjournment of an upcoming court date or motion; or an Order to Show Cause), then a working copy must be faxed to Chambers at (845) 483-8141 to receive immediate attention.

B. Telephone Calls.

Telephone calls to the Court staff are permitted only in necessary or emergency situations requiring immediate attention that cannot otherwise be attained by correspondence. Counsel and pro se litigants should not call Chambers to discuss the substance of pending cases, motions, procedures, etc... unless a conference call is approved by the Court and all opposing counsel or pro se litigants are involved in the conference call.

In the event that a telephone call to Chambers' staff is necessary as described above, the call should be made to the Court's secretary, Pat Sansone, at (845) 483-8334.

Questions regarding motion dates and appearance dates should be directed to the Court's clerk, Eileen Dillon, at (845) 483-8335.

C. Faxes.

The fax number to Chambers has been changed to (845) 483-8141.

Counsel are not permitted, without prior approval, to send facsimile transmissions to Chambers that exceed five (5) pages in length. If a document has been faxed to Chambers, it is not necessary to send an additional copy by mail, nor is it expected. Faxes of correspondence with

the Court will be accepted so long as the cover sheet or correspondence clearly indicates that the communication was sent to all other parties.

In non E-Filed matters, the Court will not accept faxed papers that must be filed with the Rockland County Clerk's office (motions, opposition papers, reply papers, proposed Orders, or documents to be so-ordered). Such papers must be delivered in hard copy (mail or drop off).

#### D. Ex Parte Communications.

Ex parte communications are strictly prohibited, except: 1) in the limited permissible context involving the presentation of Orders to Show Cause for signature, or 2) with the consent of all parties during settlement negotiations at the Courthouse, or 3) in the unusual circumstance where oral argument is required by the Court on a motion and a party fails to appear at the scheduled date and time, argument may be heard by the adversary party/parties in attendance in open court. Inappropriate ex parte communications will be returned to the sender, unread.

#### E. Court Papers.

In non E-Filed matters, all pleadings, motions, Orders to Show Cause, opposition papers, reply papers, memoranda of law and other submissions must be signed by counsel to the extent required by § 130-1.1-a of the Uniform Rules of the Chief Administrator (hereinafter "Uniform Rules").

In E-Filed matters, all pleadings, motions, Orders to Show Cause, opposition papers, reply papers, memoranda of law and other submissions must contain a signature in accordance with Uniform Rules § 202.5-b(e).

#### F. E-Filing.

All parties should familiarize themselves with the statewide E-Filing Rules (Uniform Rule §§ 202.5-b and 202.5-bb, available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) and the Rockland County E-Filing protocol. General questions about E-Filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us). Specific questions relating to local procedures should be addressed to the Rockland County Clerk's Office at (845) 638-5070. All actions specified by the Chief Administrator of the Courts, except those specifically excluded pursuant to Uniform Rule § 202.5-bb, are to be filed through the New York State Courts E -Filing system (NYSCEF).

All submissions to the Court, including proposed Orders, proposed judgments, and letters, must be electronically filed through the NYSCEF system. Subpoenas Duces Tecum and Subpoenas Ad Testificatum to be so-ordered should still be presented to the Court in original paper form for signature for upcoming trials.

All counsel and/or parties participating in the NYSCEF system are required to keep abreast of any filings through the NYSCEF system, whether such documents are filed by the adverse party(ies) or the Court. Once an attorney or party has linked into the NYSCEF system and consented to E-Filing (plaintiff/petitioner or defendant/respondent), the Court will only send communications through the NYSCEF system. An attorney or party that has linked into the

NYSCEF system will be charged with receipt of a document once it is uploaded to the NYSCEF system, whether by the Court or by an adversary.

#### G. Working Copies.

Working copies are required as follows:

- a. Motion papers. Working copies of motion papers are not required, unless specifically requested by Justice Garvey in certain instances, except in the case of Orders to Show Cause and Motions in Limine, as discussed below.
- b. Orders to Show Cause. Working copies are required on all Orders to Show Cause, including supporting affirmations/affidavits and tabbed exhibits. A proposed Order to Show Cause will not be reviewed until a working copy has been received by the Court.
- c. Motions in Limine. Working copies are required on all Motions in Limine, including supporting affirmations and tabbed exhibits, and said working copy must be received in Chambers at least seven (7) business days prior to the scheduled start of trial.
- d. Correspondence. Working copies are no longer required on all correspondence with the Court. As noted previously, if the subject matter of a particular piece of correspondence requires immediate attention (letter requesting an adjournment of an upcoming court date or motion; or an Order to Show Cause), then a working copy must be faxed to Chambers at (845) 483-8141 in order to receive immediate attention. Additionally, in certain cases, Justice Garvey will request a working copy of a particular correspondence.

When required, working copies shall be addressed **directly to Chambers** - not to the Clerk's office. If the required working copy is being hand-delivered, it can be delivered to the Chief Clerk's office on the 2<sup>nd</sup> Floor with instruction that it should be delivered to the Chambers of Justice Garvey. If the required working copy is being mailed, it is sufficient to address it to the Chambers of the Hon. Margaret Garvey, 1 South Main Street, New City, New York 10956.

#### H. Hard Copy Submissions.

In the event that a party or attorney properly opts out of E-Filing pursuant to *Uniform Rule* § 202.5-bb(e), said party is permitted to make submissions to the Court, and serve on all parties, by hard copy with no electronically filed copy. However, the Court will reject any hard copy submissions in E-Filed cases unless those submissions bear the Notice of Hard Copy Submission - E-Filed Case required by *Uniform Rule* § 202.5-b(d)(1). The form is available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile).

## II. COURT CONFERENCES

### A. General Rules.

All conferences with the Court are conducted in public before Justice Garvey at **9:15 a.m. sharp** weekdays in Courtroom # 2 of the Rockland County Courthouse, unless otherwise directed. Matrimonial conferences and detailed settlement discussions of any litigation may be conducted in Chambers when permitted by law and when otherwise appropriate and advisable. Counsel and pro se litigants are expected to appear for all conferences on time. Depending on the day's schedule, it is possible that a matter will only be called once, and could result in an adjournment, dismissal or default for an attorney or party's failure to appear timely.

Counsel must be fully familiar with the action on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their client(s). Attorneys appearing "of counsel" for an attorney of record, and parties appearing pro se, are held to the same requirements. A failure to comply with this rule may be deemed by the Court as a default and dealt with appropriately. Attorneys are expected to appear with their clients for all conferences in matrimonial actions, unless such appearances are dispensed with by the Court on prior request, noticed to the adversary and the attorney for the child.

### B. Preliminary Conferences.

Preliminary Conferences shall be conducted:

- (1) after a written Request for Judicial Intervention (hereinafter "RJI") is duly filed with the Office of the Clerk in accordance with Uniform Rule § 202.12(a); or
- (2) after an appropriate notice is filed in medical malpractice actions pursuant to Uniform Rule § 202.56; or
- (3) after an appropriate notice is filed in matrimonial actions pursuant to Uniform Rule § 202.16; or
- (4) upon a specific directive by the Court.

Preliminary Conferences will ordinarily result in the issuance of a Preliminary Conference Order, which shall address all aspects of anticipated pretrial discovery, and which shall set forth a date on which a compliance conference will later be conducted. The Preliminary Conference Order further directs that the Court shall be notified in writing if discovery does not proceed as directed, as well as any reason for the delay. All counsel and pro se litigants are expected to take most seriously the Court's discovery schedule and deadlines, and non-compliance shall only be excused if explained by extenuating circumstances.

Discovery may be expedited in third party actions, joint actions and consolidated actions to avoid undue delay in the completion of discovery overall. Preliminary Conferences of medical, dental, and podiatric malpractice actions will be conducted in accordance with Uniform Rule § 202.56(b).

Preliminary Conferences of matrimonial actions will be conducted in accordance with Uniform

*Rule* § 202.16 and *Domestic Relations Law* § 236(B)(4), by which the parties are required, inter alia, to submit at the conference copies of counsels' retainer agreements and certified copies of the parties' net worth statements (including copies of their most recent three years of federal and state income tax returns, latest W-2 forms and pay stubs, bank and investment statements and other relevant supporting documentation).

#### C. Compliance Conferences.

The purpose of the Compliance Conference is for counsel and pro se litigants to report to the Court that pre-trial discovery has been completed, to enable the Court to direct a date on which a Note of Issue shall be filed and to schedule dates for Mediation, a Pre-Trial Conference, and Trial. Pre-Trial Conferences and trial dates that are scheduled during a Compliance Conference should be viewed by the parties and counsel as firm dates. Parties are not permitted to file a Note of Issue in any action unless permission to do so is granted by the Court at the Compliance Conference. Motions to strike Notes of Issue are discouraged, as matters of outstanding discovery, if any, are expected to be raised, discussed and resolved at the Compliance Conference. The Court reserves the right to set forth at the Compliance Conferences a further discovery schedule if the litigation or the interests of justice so require, though parties are warned that any additional permissible discovery may be subject to an expedited schedule. The Court also reserves the right to impose appropriate sanctions against any party or counsel responsible for a non-excusable failure to complete pretrial discovery by the date of the Compliance Conference.

#### D. Pre-Trial Conferences.

The Court shall conduct a Pre-Trial Conference with all counsel and pro se litigants on a date that shall ordinarily be within thirty (30) days of the Trial date. It is expected that counsel attending Pre-Trial Conferences shall be fully familiar with the action and be authorized to discuss: (1) all factual and legal issues presented by the litigation, (2) settlement demands or offers, (3) Trial procedure and witness scheduling, and (4) that counsel also be authorized to enter into settlements on terms agreeable to the parties and to the Court. Further, counsel attending the Pre-Trial Conference shall either be the actual attorney trying the case or a partner/associate in the law firm representing that party (**NO OF COUNSEL AT PRE-TRIAL CONFERENCES**). The actual parties in any litigation, or in actions involving insurance carriers an authorized claims representative, must be available for the Pre-Trial Conference either in person or, if prior permission granted by the Court, by telephone for the purpose of direct contact with the Court in settlement discussions. The Court endeavors to be of assistance to parties in settling litigations prior to Trial. In the event a Pre-Trial Conference does not result in a settlement of an action, the Court will favorably entertain any later request by the parties, on consent, for the conduct of an additional Pre-Trial Conference prior to the date of Trial, but shall not allow any such additional conference to delay the Trial schedule.

#### E. Adjournments.

As a matter of general practice, adjournments will not be granted for conferences (Preliminary, Compliance, Mediation, Pre-Trial) or trials. Applications for adjournments must be made in writing actually received by the Court (by mail or fax) at least twenty-four (24) hours in advance of the scheduled conference, and must address:

- (1) good cause why an adjournment is sought,
- (2) whether the adverse party(ies) consent or object to the application, and
- (3) may, at the option of the sender, suggest an approximate time period, or an exact date, for which the adjournment is sought.

All such communications must be copied to all counsel and pro se litigants. The Court may, in the exercise of sound discretion, permit or refuse a conference adjournment in any given instance.

#### F. Non-Appearance at Scheduled Conferences.

The failure of any counsel or pro se litigant to appear for Preliminary, Compliance, or Pre-Trial Conferences may be treated by the Court as a default and may be dealt with by an Order directing the dismissal of a Complaint or Petition, the striking of any Answer, and the conduct of an inquest, or by other appropriate remedy authorized by Uniform Rule § 202.27.

### **III. APPEARANCE BY ATTORNEY**

In order to appear on behalf of a client before Justice Garvey, an attorney must formally appear in the action by filing a pleading or a motion, or a formal Notice of Appearance. In E-Filed matters, the attorney must also link into the NYSCEF system for the individual client(s). Once an attorney has formally appeared in the action, the attorney remains the attorney of record for that party until such time as the requirements of Civil Practice Law and Rules § 321 are met.

Where a party discharges his/her/its attorney, with or without cause, the discharged attorney shall memorialize the termination of services in writing, and file a copy of the letter with the Court, on notice to the former client, and all other parties (or counsel if represented). The letter must also request that the matter be scheduled for an immediate conference requiring the appearance of the former client, and new counsel if same has been retained. In such instances, the automatic stay provision of Civil Practice Law and Rules § 321(c) does not apply.

Where the party and his/her/its attorney agree on a change of counsel, the change from former counsel to new counsel can be effectuated with the filing of a "Consent to Change Attorney" signed by the retiring attorney and signed and acknowledged by the party, pursuant to Civil Practice Law and Rules § 321(b)(1). The "Consent to Change Attorney" memorializing a change in representation from one attorney to another attorney must also be sent to all parties (or counsel if represented). In such instances, the automatic stay provision of Civil Practice Law and Rules § 321(c) does not apply.

Where the attorney wishes to withdraw, but there is no new counsel substituting in, a "Consent to Change Attorney" may not be used. If the party and his/her/its attorney agree that the attorney may seek permission to withdraw as counsel of record, and the client will appear pro se, then the attorney must file with the Court a stipulation signed and acknowledged by the party, and signed by the attorney, indicating that the client and counsel agree that the attorney may request permission to withdraw. The attorney shall also file with the Court a letter requesting that the matter be scheduled for a conference immediately for the attorney and the client to appear and formally request that the Court permit the attorney to withdraw. In such instances, the automatic stay provision of Civil Practice Law and Rules § 321(c) does not apply.

Where the attorney wishes to withdraw, but there is no new counsel substituting in, and the attorney does not have the agreement of the client, the attorney must file an Order to Show Cause seeking permission to withdraw. The Court will set a return date and the client will have an opportunity to object to the application on the record. In the event that the Court grants the attorney's request to be relieved, the Court will consider giving the client time to hire new counsel to represent him/her/it in the action (i.e. fifteen (15) days or thirty (30) days). However, the Court will note that in such instances, the automatic stay provision of Civil Practice Law and Rules § 321(c) does not apply

The automatic stay provision of Civil Practice Law and Rules § 321(c) applies only where an attorney dies, becomes physically or mentally incapacitated, or is removed, suspended or otherwise becomes disabled at any time before judgment.

#### **IV. MOTIONS AND ORDERS TO SHOW CAUSE**

Prior to making any motion regarding discovery or disclosure issues, the potential movant (or counsel) shall notify the Court in writing (two page maximum length), with a copy to all parties, setting forth the relief sought and the basis for that relief. The Court may then schedule either a conference call with counsel, an in-court conference date, or grant permission for the potential movant to file the requested motion. This procedure does not preclude the moving party from making a motion regarding discovery or disclosure issues, but provides the Court with an opportunity to resolve the dispute giving rise to the motion without the need for a formal written application regarding the discovery or disclosure issues.

For all other motions, there is no need to request permission or express the intention to file such motion.

##### **A. General Rules.**

The Court will entertain motions on submission (Notice of Motion) for 9:15 a.m. on any Friday the Court is in session. The return date for an Order to Show Cause shall, of course, be determined by the Court at the time papers are submitted for consideration and executed. There shall be no motion calendar called by the Court, and no oral argument heard on any motions unless directed by the Court in a given instance. In the unusual instance when the Court wishes to hear oral argument on a motion, as permitted by Uniform Rule § 202.8(d), all counsel and pro se litigants shall be provided with reasonable prior notice of the date and time scheduled for such purpose at which the parties are expected to appear in Court. The failure of a moving party to appear for oral argument at the scheduled date and time may result in the motion being denied and otherwise marked off, while the failure of appearance by an opposing party may result in the motion being argued ex parte and then decided either on the merits or granted on default.

##### **B. Filing of Papers Applicable to All Motions.**

Except with the express permission of the Court, all motion papers and Orders to Show Cause, including Notices of Motion, proposed Orders, affidavits or affirmations in support, affidavits or

affirmations of good faith and memoranda of law, must contain the address, telephone and fax numbers of counsel (or pro se litigant) and be typewritten, double-spaced, securely bound, entirely legible, and all exhibits labeled with exhibit tabs. The Court may refuse to accept any such paper which does not conform to the foregoing. Similarly, working copies of electronically filed motions should conform to the above requirements as well. Motion papers and all related correspondence must reflect the Index Number assigned to the action.

Unless directed otherwise by the Court, the filing of a motion does not relieve any party from attending any previously scheduled conferences, or court appearances, regardless of the nature of the relief sought in the motion. However, in foreclosure actions, the Court may direct that in the event that an application for an Order of Reference or a Judgment of Foreclosure and Sale is filed prior to an adjourn date, then appearances may be excused. In that instance, the filing must be filed prior to the conference date in order for appearances to be excused.

#### C. Electronically Filed Submissions.

Counsel and pro se litigants must use appropriate document titles when uploading items through the NYSCEF system, and include a description when possible. In the NYSCEF system, exhibits to motion papers must be uploaded as separate documents labeled with the appropriate exhibit designation (1, 2, etc... or A, B, etc...). If a movant files an electronic submission that does not comply with this requirement, he/she will be given one opportunity to remedy the submission, then the motion will be denied.

As noted previously, the Court does not require working copies of motions unless specifically requested by Justice Garvey in a particular instance. However, working copies of all Orders to Show Cause and all Motions in Limine are required. When working copies are required, such working copies submitted to Chambers must include exhibit tabs and be properly bound. Further, the working copy must match the electronically filed document exactly.

#### D. Supporting Documents.

In non E-Filed matters, all documents required to decide the application must be included in the moving papers. It is not sufficient that those documents are on file with the County Clerk. Compliance with this rule is particularly important on motions brought pursuant to Civil Practice Law and Rules § 2221. If the required documents are not attached, the Court may dismiss or deny the application entirely.

In E-Filed matters, if counsel or a pro se litigant intends to rely upon a document that is already a part of the NYSCEF record, then counsel or said pro se litigant shall clearly state such intention and identify the document relied upon by the NYSCEF document number.

#### E. Motion Adjournments.

Applications for adjournments of motions must be made in writing actually received by the Court (by letter or fax) not later than 9:00 a.m. on the day prior to the return date, and must address:

- (1) good cause why an adjournment is sought,

- (2) whether the adverse party (parties) consent or object to the application,
- (3) whether the motion has previously been adjourned and if so, at the request of which side,
- (4) the Trial date, if one has been scheduled, and
- (5) may, at the option of the sender, suggest an approximate time period, or an exact date, for which the adjournment of the motion is sought.

All such communications must be copied to all counsel and pro se litigants. Stipulations to adjourn motions that are not accompanied by the above mentioned application or request in writing **will not** be entertained. The Court may, in the exercise of sound discretion, permit or refuse a motion adjournment in any given instance. No more than three adjournments of any single motion will be permitted. In assigning an adjourn date, the Court shall give due consideration to any specific date agreed upon by all parties. Motion adjournments shall be confirmed to the Court and all adversary parties in writing. No adjournment request will be entertained by the Court unless the party seeking the adjournment has first attempted to obtain consent from all the other parties in the action, or provides sufficient reason why he/she has not contacted his/her adversary(ies). Parties seeking a non-consented to adjournment must provide good cause as to why the adjournment should be granted.

#### F. Reply Papers.

Reply Papers shall not set forth new factual claims, legal arguments, expert affidavits, or requests for relief that were not within the scope of the papers that initiated the motion.

#### G. Sur-Reply Papers.

The *Civil Practice Law and Rules* does not recognize the existence of Sur-Reply Papers, however denominated, and accordingly, this Court will not consider any papers or materials submitted after a Reply submission absent a party receiving express permission from the Court in advance. Such materials received in violation of the *Civil Practice Law and Rules* and these part rules will be returned, unread, to the Office of the Rockland County Clerk for filing in non E-Filed matters, or discarded in E-Filed matters. Opposing counsel who receives a copy of such materials submitted in violation of this rule should not respond in kind.

#### H. Summary Judgment Motions.

Summary Judgment Motions must be made no later than sixty (60) days from the date of the filing of the Note of Issue, unless otherwise specified by the Court.

## **V. DECISIONS AND ORDERS**

#### A. Written Decisions and Orders.

In most instances, a Decision and Order will be rendered in written form following the full submission of the motion, or Order to Show Cause.

In non E-Filed matters, the Decision and Order, with all supporting and opposition papers, will be filed by the Court with the Office of the Rockland County Clerk. A copy of the Decision and Order will be faxed to counsel for the parties or any pro se party provided a facsimile number was provided with the motion papers as required by these Part Rules.

If the matter is E-Filed, the Decision and Order will only be uploaded to the NYSCEF system, and will only be sent by mail or fax to a party who has properly opted out of e-filing.

#### B. Oral Decisions and Orders.

In certain instances, the Court may render a Decision and issue an Order orally from the bench. In such instances, a transcript of the Decision and Order, paid for by the party(ies) and provided to the Court, will be executed or so-ordered by the Court. Counsel or any pro se litigant may also submit a proposed Order with a copy of the transcript.

In non E-Filed matters, the so-ordered transcript, or executed proposed Order, will be filed with the Office of the Rockland County Clerk.

In E-Filed matters, the so-ordered transcript, or the executed proposed Order, will be uploaded through the NYSCEF system.

### **VI. TRIALS AND HEARINGS**

#### A. Trial Dates.

Trial dates provided by the Court should be deemed firm in every action, and accordingly, it is expected that clients, fact witnesses, physicians, experts and others be timely advised of scheduled dates to avoid last minute claims of unavailability. Counsel is reminded of the "Sixty Day Rule," pursuant to Uniform Rule § 125.1(g) regarding applications for adjournments. If a date for Trial of an action or proceeding has been scheduled at least two months in advance, counsel previously designated as Trial counsel must appear on that date, or if engaged elsewhere or has a scheduling conflict, must produce substitute Trial counsel. Videotaped testimony can be arranged with the Court at the producing party's expense, to be conducted between the date of the Pre-Trial Conference and the date of the Trial, to accommodate serious, prejudicial and unavoidable scheduling difficulties that might arise without delaying the scheduled Trial itself. In scheduling and conducting Trials, the Court shall endeavor to accommodate bona fide special preferences to the extent recognized by Civil Practice Law and Rules § 3403 and Uniform Rules §§ 202.24 and 202.25.

#### B. Subpoenas.

All counsel are reminded that they may sign Trial subpoenas duces tecum and subpoenas ad testificatum as officers of the Court pursuant to Civil Practice Law and Rules § 2302, except when subpoenas are directed to documents of libraries, hospitals, and municipal corporations and their departments and bureaus, in which cases they must be "so ordered" by the Court pursuant to Civil Practice Law and Rules §§ 2306 and 2307. Subpoenas for documents possessed by libraries, hospitals and municipal corporations may only be "so ordered" upon

motion served upon the intended recipients of the subpoena with at least one (1) day's notice pursuant to *Civil Practice Law and Rules* § 2307. "So ordered" subpoenas must then be served upon intended recipient at least twenty-four (24) hours before the time fixed for the production of the documents, unless such notice is waived by the Court due to emergency circumstances as permitted by *Civil Practice Law and Rules* § 2307. Motions for "so ordered" subpoenas should be delivered to the Part Clerk at the Courthouse in paper form, and will be addressed by the Court promptly when time sensitive. Subpoenas will be "so ordered" if they appear on their face to relate to evidence that is at least minimally material and relevant to the action, and benefits of the doubt shall ordinarily be resolved in favor of the party seeking the "so ordered" subpoena. The Court's issuance of "so ordered" subpoenas should not be viewed by parties as collateral estoppel on the issue of admissibility at trial of the documents to which such subpoenas relate.

#### C. Interpreters.

In the event that any party requires the services of a translator during trial (or any conferences) for foreign languages or services for the hearing impaired, the Court is to be notified of same as soon as practicable, and in no event later than the Pre-Trial Conference, so that appropriate arrangements can be made by the Court in advance of the Trial date.

#### D. Pre-Trial Requirements.

##### Expert Disclosures.

All expert disclosure notices pursuant to *Civil Practice Law and Rules* § 3101(d) notices, if duly demanded, shall be served on opposing counsel(s) at least thirty (30) days before the scheduled start of Trial.

##### Trial Notebooks.

No later than five (5) business days prior to the scheduled Trial date, unless otherwise directed by Justice Garvey, counsel shall each provide to the other and submit to the Court a paginated trial notebook, with tabbed exhibit dividers, which shall consist of:

1. Marked pleadings in accordance with *Civil Practice Law and Rules* § 4012.
2. The joint statement of the relevant facts that are not in dispute.
3. Pre-Trial memoranda of law as to any known disputed legal issues that must be determined by the Court.
4. A list of witnesses for each party.
5. A list of all exhibits to be offered by each party.
6. Copies of the exhibits intended to be offered by counsel, pre-marked with plaintiff's exhibits numbered sequentially and defendant's exhibits lettered sequentially.

7. Requests to Charge - the charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted. Unless counsel seeks a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need to be submitted. Where deviations or additions are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedent. Additionally, if the PJI calls for incorporation of a statute, counsel must submit the full charge including the text of the statute with proposed or agreed upon edits, also in writing.
8. Verdict Sheet - counsel shall jointly prepare a verdict sheet. The verdict sheet is to be typed in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet, along with a written explanation as to why agreement on the verdict sheet cannot be reached.
9. In Matrimonial Actions - updated net worth statements, statements of proposed dispositions as required by Uniform Rule § 202.16(h) and any forensic reports, appraisals and evaluations.

The Court may, in its discretion, relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justify such relief. Such a request will be entertained only at the Pre-Trial Conference. Failure to submit a properly paginated, tabbed and divided trial notebook five (5) business days prior to the date of Trial may result in the Court, on its own motion, or on motion of opposing counsel, striking the pleadings of the party who failed to submit the trial notebook in accordance with these Part Rules.

#### Evidentiary Objections.

At least two (2) business days prior to the scheduled Trial date, each counsel shall provide to the other and submit to the Court a statement setting forth any objections to the exhibits identified in the list provided by opposing counsel and the specific basis therefor. Any exhibit as to which no objection is identified shall be admitted into evidence on consent. The failure to submit such a statement of objections on a timely basis may be deemed to be consent to the admission of all of the exhibits included in the trial notebook submitted by the opposing party.

#### Witnesses.

Any witness not identified in the witness list provided to opposing counsel, other than an impeachment or rebuttal witness, shall not be permitted to testify unless an adequate explanation is provided for the failure to identify such witness prior to Trial. Parties, fact witnesses and expert witnesses should be advised of the scheduled dates at the time they are set. Absent unanticipated, exigent circumstances, last minute claims of unavailability will not be recognized where Trial dates have been previously set. All witnesses should be on thirty-minute phone call notice so that their waiting time in court is minimized. Professional witnesses, such as doctors, nurses, and social workers, and witnesses who are public employees, such as teachers, counselors and police officers, will be permitted to testify out of order to accommodate their employment schedules. To the extent possible, school teachers should be scheduled after 3:00 p.m. so that it is not necessary for the employers to provide substitutes.

### Exhibits.

Any exhibit not identified in the exhibit list provided to opposing counsel, other than an exhibit offered for the purpose of impeachment or rebuttal, shall not be admitted into evidence unless an adequate explanation is provided for the failure to identify such exhibit prior to Trial. In addition to the copies of exhibits provided in the trial notebook, each party shall provide at trial one additional set of exhibits which will be used when counsel wishes to publish an exhibit to a witness.

### Settlement.

The Court is available for a settlement conference at any time prior to the scheduled Trial date. If the matter is not settled prior to the Trial date, the Trial will commence as scheduled. Settlement negotiations will not be entertained on the scheduled Trial date prior to the commencement of the Trial. If the matter is settled outside the presence of the Court, counsel shall advise the part clerk immediately so that another matter may be scheduled in its place. Plaintiff/Petitioner's counsel, or the pro se plaintiff/petitioner, shall confirm the settlement in writing by faxing a letter to Chambers at (845) 483-8141.

### Motions in Limine.

Any motions for the Court's consideration in limine must be filed with the Court no later than seven (7) business days prior to the scheduled date of Trial, except as to issues that cannot be reasonably anticipated prior to trial. In some instances, the Court may direct submission of motions in limine by a date certain. In an E-Filed matter, the motion in limine shall be electronically filed as well, with the working copy addressed directly to Chambers - not to the Clerk's office, and said working copy must be received at least seven (7) business days prior to the scheduled date of Trial, except as to issues that cannot be reasonably anticipated prior to Trial. Unless otherwise directed by the Court, motions in limine and opposition papers to such motions shall not exceed ten (10) pages in length. If more than one motion in limine is contemplated by a party, each such motion shall be separately bound and is subject to a separate page limit.

### Identification of Trial Counsel.

Attorneys are reminded that if a Trial is to be argued by counsel other than the attorney of record, *Uniform Rule* § 202.31 requires that the Trial counsel be identified in writing to the Court and to all parties not later than fifteen (15) days from the date of the Pre-Trial Conference, with such writing signed by both the attorney of record and the incoming Trial counsel. This rule will be waived by the Court in any instance when the attorney of record is engaged in an unrelated Trial and the retention of Trial counsel allows the parties to proceed with the Trial by Justice Garvey without adjournment.

### Pre-Voir Dire Conference.

Immediately prior to the commencement of jury selection, during the 9:15 a.m. calendar call, the Court shall conduct with all the attorneys and pro se litigants a pre-voir dire conference as required by the *Uniform Rule* § 202.33(b). The purpose of the conference shall be to: set time limits upon jury selection and to determine limits upon peremptory challenges; discuss Trial stipulations; argue and/or decide motions in

limine; further discuss potential full or partial settlements; discuss scheduling; and address other appropriate trial-related issues.

Jury Selection.

Juries shall be selected by the parties outside the presence of the Court in accordance with "White Rules," a copy of which comprises Appendix E of the Uniform Rules for the New York Trial Courts. The Court shall impose upon parties in all actions time limits on a Panel-to-Panel basis for the conduct of jury selection, as authorized by *Uniform Rule* § 202.33(d), and such time limits may vary in the exercise of the Court's discretion based upon the nature and complexity of given actions. The Court shall be available to resolve any conflicts that arise between parties during the jury selection process, including but not limited to disputes over challenges for cause as contemplated by *Civil Practice Law and Rules* § 4108. Peremptory challenges shall be pooled between multiple plaintiffs on the one hand and between multiple defendants on the other, and generally, each side shall be entitled, per panel, to three (3) peremptory challenges for regular jurors and one (1) peremptory challenge for each alternate juror. However, pursuant to *Civil Practice Law and Rules* § 4109, the number of peremptory challenges may be adjusted by the Court in certain actions in the exercise of sound discretion and in the interests of justice.

Bifurcation.

The Trials of personal injury actions involving issues of both liability and damages shall be bifurcated in accordance with *Uniform Rule* § 202.42 and all subdivisions thereof. Jury selection, opening statements, and the presentation of evidence shall be governed accordingly. Unless otherwise stated by Justice Garvey, Trials on damages will commence immediately upon completions of the Trials on liability.

Non-jury Trials - Transcripts and Post-Trial Briefs.

Counsel for the parties shall notify the Court in writing once the completed transcript from the Trial in a non-jury Trial is received by counsel, and a copy of same shall be provided to the Court if the Court has not already received same from the stenographer(s). Unless the Court directs otherwise, within thirty (30) days from that date, counsel for the parties will submit a Post-Trial memoranda with respect to the issues raised at the Trial, setting forth specific references to the relevant portions of the transcript and the documents in evidence, and citing the applicable law, as well as proposed Findings of Fact and Conclusions of Law. Unless the Court directs otherwise, within fifteen (15) days of the date of the Post-Trial submission, counsel for the parties shall submit reply memoranda addressing issues raised by the adverse party in the Post-Trial submission.

**VII. SETTLED AND DISCONTINUED CASES**

Plaintiff's/Petitioner's counsel or pro se Plaintiff/Petitioner shall immediately notify the Court in writing (either by fax or mail) of a case disposition. Following the initial notification, either side shall submit a copy of the stipulation of discontinuance to chambers so that the matter may be marked off the calendar.

In foreclosure matters, Plaintiff's counsel will be required to appear at regularly scheduled conferences until he/she submits either:

- (1) A stipulation cancelling the lis pendens and discontinuing the action; or
- (2) A Notice of Motion seeking an Order cancelling the lis pendens and discontinuing the action.

### **VIII. TAX CERTIORARI MATTERS**

#### A. Request for Judicial Intervention.

Article 7 Petitions will not appear on the calendar for appearance unless and until a Request for Judicial Intervention requesting a Preliminary Conference is filed. There are to be no appearances before this Court on the return date of an Article 7 Petition.

If a matter has other companion cases that are already on the Court's calendar, then the party filing the Request for Judicial Intervention must also file with the Court a letter advising the Court of the companion cases, and the next scheduled date for said companion cases.

#### B. Appearances.

All conferences on tax certiorari matters are conducted in public before Justice Garvey at **9:15 a.m. sharp** on Wednesdays in Courtroom # 2 of the Rockland County Courthouse, unless otherwise directed. Counsel for the parties, and the municipality's assessor, are expected to appear for all conferences on time. In some cases, the Court may excuse the appearance of the assessor, upon request. An unexcused failure to appear could result in an adjournment or dismissal.

Counsel must be fully familiar with the action on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their client(s). Attorneys appearing "of counsel" for an attorney of record, are held to the same requirements. A failure to comply with this rule may be deemed by the Court as a default and dealt with appropriately.

#### C. Scheduling Order.

Counsel for the parties may request a Scheduling Order at any point after the first Preliminary Conference. That request may be made orally during a regularly scheduled conference. The Scheduling Order will provide the dates for the exchange of Trial Appraisals, a Pre-Trial Conference, submission of Pre-Trial memoranda, and the Trial date. All counsel are expected to take most seriously the Court's Scheduling Order and deadlines, and non-compliance shall only be excused if explained by extenuating circumstances .

#### D. Motions.

The Court will entertain motions in tax certiorari matters on submission (Notice of Motion) for 9:15 a.m. on any Wednesday the Court is in session. The return date for an Order to Show Cause shall, of course, be determined by the Court at the time papers are submitted for consideration and executed. There shall be no motion calendar called by the Court, and no oral argument heard on any motions unless directed by the Court in a given instance. In the unusual instance when the Court wishes to hear oral argument on a motion, as permitted by *Uniform Rule* § 202.8(d), all counsel and pro se litigants shall be provided with reasonable prior notice of the date and time scheduled for such purpose at which the parties are expected to appear in Court. The failure of a moving party to appear for oral argument at the scheduled date and time may result in the motion being denied and otherwise marked off, while the failure of appearance by an opposing party may result in the motion being argued ex parte and then decided either on the merits or granted on default.

#### E. Appraisal Exchange in Tax Certiorari Cases.

The Scheduling Order will set a date for the exchange of Trial Appraisals. Counsel for both sides shall either hand deliver said Trial Appraisals on that date, or overnight mail them the day prior, to ensure delivery on that date. If counsel for either side on a tax certiorari matter anticipates an issue with said exchange procedure, he/she shall inform the Court on the date the Scheduling Order is issued and the Court will then set the appraisal exchange date for a Wednesday and schedule the matter for a conference on that date. In that event, the parties will be required to come before the Court on that Wednesday for a conference for the sole purpose of exchanging the trial appraisals on the record before Justice Garvey. Each party is directed to prepare and maintain the original and one copy of the Trial Appraisal for the Court. However, said original and one copy are NOT to be submitted to the Court until directed to do so by Justice Garvey immediately prior to trial.

#### F. Pre-Trial Memoranda in Tax Certiorari Matters.

The Scheduling Order discussed above will also set a date for submission of Pre-Trial memoranda. The parties shall follow the same procedure described above for the appraisal exchange when exchanging the Pre-Trial memoranda. However, the parties shall also submit the original and one copy of the Pre-Trial memoranda to the Court so that it is received on or before the date set in the Scheduling Order. In E-Filed cases, the Pre-Trial memoranda must be uploaded to the NYSCEF system so that they become part of the official record.

#### G. Trial.

##### Trial Notebooks.

No later than five (5) business days prior to the scheduled Trial date, unless otherwise directed by Justice Garvey, counsel shall each provide to the other and submit to the Court a paginated trial notebook, with tabbed exhibit dividers, which shall consist of:

1. The Article 7 petitions for the tax years at issue in the trial.

2. The joint statement of the relevant facts that are not in dispute.
3. A list of witnesses for each party.
4. A list of all exhibits to be offered by each party.
5. Copies of the exhibits intended to be offered by counsel, pre-marked with petitioner's exhibits numbered sequentially and respondents' exhibits lettered sequentially.

The Court may, in its discretion, relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justify such relief. Such a request will be entertained only at the Pre-Trial Conference. Failure to submit a properly paginated, tabbed and divided trial notebook five (5) business days prior to the date of Trial may result in the Court, on its own motion, or on motion of opposing counsel, striking the pleadings of the party who failed to submit the trial notebook in accordance with these Part Rules.

#### Evidentiary Objections.

At least two (2) business days prior to the scheduled Trial date, each counsel shall provide to the other and submit to the Court a statement setting forth any objections to the exhibits identified in the list provided by opposing counsel and the specific basis therefor. Any exhibit as to which no objection is identified shall be admitted into evidence on consent. The failure to submit such a statement of objections on a timely basis may be deemed to be consent to the admission of all of the exhibits included in the trial notebook submitted by the opposing party.

#### Witnesses.

Any witness not identified in the witness list provided to opposing counsel, other than an impeachment or rebuttal witness, shall not be permitted to testify unless an adequate explanation is provided for the failure to identify such witness prior to Trial. Parties, fact witnesses and expert witnesses should be advised of the scheduled dates at the time they are set. Absent unanticipated, exigent circumstances, last minute claims of unavailability will not be recognized where Trial dates have been previously set. All witnesses should be on thirty-minute phone call notice so that their waiting time in court is minimized.

All witnesses, including but not limited to assessors, appraisers, experts, and fact witnesses, who maintain and/or possess a file and/or documents relevant to their testimony and/or the subject matter of the trial, hearing, or other matter before the Court, shall bring their entire and complete file and/or any and all relevant documents with them to Court on the date of their testimony and on any dates on which their testimony continues. Any party whose witness fails to appear with his or her complete file and/or any and all relevant documents as detailed above, will bear any and all costs associated with the adjournment of the trial, hearing or other proceeding as may be necessary to secure the witness' file and/or relevant documents.

### Exhibits.

Any exhibit not identified in the exhibit list provided to opposing counsel, other than an exhibit offered for the purpose of impeachment or rebuttal, shall not be admitted into evidence unless an adequate explanation is provided for the failure to identify such exhibit prior to Trial. In addition to the copies of exhibits provided in the trial notebook, each party shall provide at trial one additional set of exhibits which will be used when counsel wishes to publish an exhibit to a witness.

### Settlement.

The Court is available for a settlement conference at any time prior to the scheduled Trial date. If the matter is not settled prior to the Trial date, the Trial will commence as scheduled. Settlement negotiations will not be entertained on the scheduled Trial date prior to the commencement of the Trial. If the matter is settled outside the presence of the Court, counsel shall advise the part clerk immediately so that another matter may be scheduled in its place. Petitioner's counsel shall confirm the settlement in writing by faxing a letter to Chambers at (845) 483-8141.

### Motions in Limine.

Any motions for the Court's consideration in limine must be filed with the Court no later than seven (7) business days prior to the scheduled date of Trial, except as to issues that cannot be reasonably anticipated prior to Trial. In an E-Filed matter, the motion in limine shall be electronically filed as well, with the working copy addressed directly to Chambers - not to the Clerk's office, and said working copy must be received at least seven (7) business days prior to the scheduled date of Trial, except as to issues that cannot be reasonably anticipated prior to Trial. Unless otherwise directed by the Court, motions in limine and opposition papers to such motions shall not exceed ten (10) pages in length. If more than one motion in limine is contemplated by a party, each such motion shall be separately bound and is subject to a separate page limit.

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Attorneys are reminded that if a Trial is to be argued by counsel other than the attorney of record, *Uniform Rule* § 202.31 requires that the Trial counsel be identified in writing to the Court and to all parties not later than fifteen (15) days from the date of the Pre-Trial Conference, with such writing signed by both the attorney of record and the incoming Trial counsel. This rule will be waived by the Court in any instance when the attorney of record is engaged in an unrelated trial and the retention of Trial counsel allows the parties to proceed with the Trial by Justice Garvey without adjournment.

### H. Transcripts and Post-Trial Memoranda in Tax Certiorari Cases.

Counsel for the parties shall notify the Court in writing once the completed transcript from the Trial in a tax certiorari matter is received by counsel, and a copy of same shall be provided to the Court if the Court has not already received same from the stenographer(s). Unless the

Court directs otherwise, within thirty (30) days from that date, counsel for the parties will submit a Post-Trial memoranda with respect to the issues raised at the Trial, setting forth specific references to the relevant portions of the transcript and the documents in evidence, and citing the applicable law, as well as proposed Findings of Fact and Conclusions of Law. Unless the Court directs otherwise, within fifteen (15) days of the date of the Post-Trial submission, counsel for the parties shall submit reply memoranda addressing issues raised by the adverse party in the Post-Trial submission.

#### I. Settlement Orders, Stipulations and Judgments.

A proposed settlement order, stipulation and/or judgment will not be placed on the calendar and/or executed if a Request for Judicial Intervention has not previously been filed. It is not necessary to send a copy of the Request for Judicial Intervention with the proposed settlement order, stipulation and/or judgment, just that it be filed with the Court. However, it is necessary to send a working copy of the proposed settlement order, stipulation and/or judgment.

In non E-Filed matters, a conformed copy of a Judgment or Order will be filed by the Court with the Office of the Rockland County Clerk. A copy of the conformed copy of a Judgment or Order will be faxed to counsel for the parties provided a facsimile number was provided. If counsel provides a self-addressed stamped envelope, a copy of the conformed copy of a Judgment or Order may also be mailed.

If the matter is E-Filed, the conformed copy of a Judgment or Order will only be uploaded to the NYSCEF system, and will only be sent by mail or fax to a party who has properly opted out of e-filing.

Counsel for the parties are responsible to ensure that proper notice and a copy of the proposed settlement order, stipulation and/or judgment is given to the Rockland County Attorney's office prior to the submission of same to the Court.

UPDATED FEBRUARY 2015