



HON. ROLF M. THORSEN

Acting Justice of the Supreme Court 9th J.D.
County Court Judge Rockland County

INDIVIDUAL PART RULES

Effective January 1, 2018

Court Information:

Address: Rockland County Courthouse
One South Main Street
New City, New York 10956

Telephone: Chambers (845) 483-8353
Park Clerk (845) 483-8332

Fax: Chambers (845) 483-8141

Court Staff:

Judge's Secretary: Sandy Palughi
Principal Court Attorney: Stephanie A. Small, Esq.
Part Clerk: Blanqui Rodriguez

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I. COMMUNICATIONS WITH THE COURT

A. Written Correspondence

All written correspondence to the Court and Clerk shall be copied to all adversaries (counsel and pro se litigants) and must include the case name and Index Number. Correspondence between attorneys and/or pro se litigants shall not be copied to the Court unless otherwise directed or where there is some specific judicial purpose to be served by transmitting copies to the Court.

B. Telephone Calls

Telephone calls to 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, 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 Chamber's staff is necessary as described above, the call should be made to the Court's secretary, Sandy Palughi, at the number for Chambers set forth above.

Questions regarding motion dates and appearance dates should be directed to the Court's Part Clerk, Blanqui Rodriguez, at the number for the Part Clerk set forth above.

C. Faxes

All faxes sent to the Court must be transmitted simultaneously to all other parties with a cover page clearly indicating same. Counsel are not permitted, without prior approval, to send facsimile transmissions to Chambers that exceed five (5) pages in length. Neither Chambers nor the clerk will accept faxed copies of papers that must otherwise be filed in original form (such as petitions, objections, proofs of service, motions, opposition to motions, replies, proposed Orders, and documents to be "So Ordered"). **If a document has been faxed to Chambers, do not mail an additional copy to the Court.**

D. Ex Parte Communications

Ex parte communications are prohibited except where an Order to Show Cause is submitted for signature, or, with the prior consent of all parties during settlement

negotiations at the Courthouse.

E. Electronic Filing (E-Filing)

All parties in Supreme Court matters should familiarize themselves with the statewide E-Filing Rules (Uniform Rules §§ 202.5-b and 202.5-bb, available at 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@nycourts.gov. 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).

In actions subject to E-Filing, 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, 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.

For additional rules regarding Working Copies of motion papers in E-Filed cases, see Section III below entitled Motions and Orders to Show Cause.

F. 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 hard copy submissions to the Court, and serve same on all parties, 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 as required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

G. Specific Notifications

If an action pending before the Court has been stayed as a result of the filing of a bankruptcy action, an appeal or for some other reason, the Court shall be **immediately** notified in writing, via E-File, or by fax or mail if not an E-Filed case of same. Similarly, if the bankruptcy, appeal or other reason for the stay has been otherwise resolved, the Court shall be **immediately** notified in writing, via E-File, or by fax or mail if not an E-Filed case of same. The Court shall be provided with periodic notifications of the status of the stay every 120 days.

II. COURT CONFERENCES AND CALENDAR CALLS

A. General Rules

Appearances at the calendar call are required by attorneys or pro se litigants in all matters. All calendar calls are conducted before Judge Thorsen in Courtroom 468 of the Rockland County Courthouse Monday through Friday at 9:30 a.m. All counsel and pro se litigants must be fully familiar with the matter on which they appear and be authorized to enter into substantive and procedural agreements on behalf of their clients. **All counsel are required to submit a business card to the Court stenographer at each appearance.**

B. Interpreters

In the event that any party or witness requires the services of an interpreter of foreign languages or services for the hearing impaired during a court appearance, conference, hearing or trial, the party shall notify, in writing, the Court and the Part Clerk of the need for same no later than three (3) weeks prior to the court appearance, conference, hearing or trial.

C. 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 order is issued 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. 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 file with the Court, at least ten (10) days prior to the conference, a current Statement of Net Worth and Attorney's Retainer Agreement.

D. 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 motions, settlement conferences and referral to the Trial Assignment Part. Any matters of outstanding discovery shall be addressed at the Compliance Conference. The Court reserves the right to set forth at the Compliance Conference an amended 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 pre-trial discovery by the Compliance Conference.

E. Pre-Trial Conferences

The Court may conduct a Settlement Conference with all counsel and pro se litigants on a date that shall ordinarily be within thirty (30) days of the date the action is referred to the Trial Assignment Part. It is expected that counsel attending Settlement Conferences

shall be fully familiar with the action and shall be authorized: (1) to discuss all factual and legal issues presented by the litigation, (2) to discuss settlement demands or offers, and (3) to enter into settlements on terms agreeable to the parties and to the Court. Further, counsel attending the Settlement Conference shall either be the actual attorney trying the case, or a partner/associate in the law firm representing that party (**"OF COUNSEL" ATTORNEYS SHALL NOT ATTEND SETTLEMENT CONFERENCES**). The actual parties in any litigation, or in actions involving insurance carriers, as authorized claims representative, must be available for the Settlement Conference either in person or 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 Settlement 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.

F. Adjournments of Conferences

As a matter of general practice, requests for adjournments of conferences are discouraged.

Applications for adjournments of conferences must be made in writing via E-File, or by fax or mail if not an E-Filed case, and actually received by the Court at least forty-eight (48) hours in advance of the scheduled conference, and must address:

- (1) the date of the scheduled Court appearance and trial date, if any;
- (2) GOOD CAUSE why an adjournment is sought;
- (3) whether the adverse party(ies) consent or object to the application; and
- (4) may, at the option of the sender, suggest an approximate time period, or an exact date, for which the adjournment is sought.

In the event that a court appearance is forthcoming while a fully-submitted motion is pending before the Court, the movant may, no more than three days before the scheduled court appearance, contact the court in writing via E-File, or by fax or mail if not an E-Filed case, to request an adjournment of the court appearance.

All such communications must be copied to all counsel and pro se litigants. The Court may, in the exercise of sound discretion, permit or deny a conference adjournment in any given instance. If the parties or counsel have not received a response from the Court either granting or denying the adjournment request, appearances are required.

G. Non-Appearance at Scheduled Conferences

The failure of any counsel or pro se litigant to appear for a Preliminary, Compliance, or Settlement Conference may be treated by the Court as a default and may be dealt with by an Order directing judgment by default or dismissal of the action or other appropriate remedy authorized by Uniform Rule § 202.27.

III. MOTIONS AND ORDERS TO SHOW CAUSE

A. Return Dates

Motions shall be made returnable at 9:30 a.m. on any Friday that the Court is in session. The return dates for Orders to Show Cause shall be determined by the Court.

B. Format

All motion papers and Orders to Show Cause must be typewritten, double-spaced, securely bound, entirely legible and all exhibits must be labeled with tab markings. Bindings or fastenings either on the top or left-side of the page shall not encroach upon, delete or otherwise omit the content of the papers. (**Do not bind papers with heavy-duty staples**). Deposition transcripts included as exhibits must be single-sided pages only unless they are double-sided in a way that does not require the rotation of the papers to read the transcript. The Court may reject any such paper which does not conform to the foregoing. The moving party shall submit a proposed order. Unless prior permission has been granted, the Court will not consider any sur-reply papers or papers submitted after the return date.

C. Working Copies/Submission of Papers

Working copies of motion papers, including Orders to Show Cause in electronically filed cases **shall be addressed to Chambers**. Motion papers filed in all other matters shall be filed with the Supreme Court Civil Clerk's office.

D. Appearances/Oral Argument

No appearances shall be made on motion return dates EXCEPT for motions and Orders to Show Cause made in matrimonial actions or unless otherwise ordered by the Court. Oral argument may be requested by noting "Oral Argument Requested" immediately over the

index number on the Notice of Motion. If the Court, in its discretion, determines that oral argument would assist the Court in rendering its decision, whether requested or not, the movant's attorney will be so advised and will be required to notify all parties of the date scheduled for oral argument.

E. Orders to Show Cause

Unless otherwise applicable, any application for temporary injunctive relief shall comply with Uniform Rule § 202.7 (f) by including either: (i) an affirmation demonstrating that a good faith effort has been made to notify the party against whom the temporary restraining order is sought of the time, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application, or (ii) an affirmation that there will be significant prejudice to the party seeking the restraining order by giving of notice.

F. Adjournment of Motions

1. With Consent: Upon consent of all counsel and pro se litigants, the Court will ordinarily grant up to three (3) adjournments of a motion or Order to Show Cause. The party seeking the adjournment must obtain the consent of adversary parties and notify the Part Clerk, in writing via E-File, or by fax or mail if not an E-Filed case, of the requested adjournment date at least forty-eight (48) hours before the return date. The Court will assign a new date for the motion or Order to Show Cause and in doing so, will give due consideration to any specific date agreed upon by the parties.
2. Without Consent. Parties requesting an adjournment without the consent of the other parties shall submit, in writing via E-File, or by fax or mail if not an E-Filed case, a brief letter to the Court with a copy to all interested counsel at least forty-eight (48) hours prior to the return date. Parties seeking an adjournment without consent must provide good cause as to why the adjournment should be granted. Counsel opposing the adjournment request should submit a brief response setting forth their reasons for objecting. No further communications will be permitted.
3. Notification. The party making the request for the adjournment shall submit, in writing via E-File, or by fax or mail if not an E-Filed case, a follow-up letter to the Court and all parties advising that the request for an adjournment has been granted or denied.

G. Withdrawal of Motions

In the event that a motion has been resolved by a withdrawal or settlement of the issue or action, counsel are to **immediately** notify the Court in writing via E-File, or by fax or mail if not an E-Filed case, that the motion is withdrawn. In the event the action is settled or otherwise resolved, counsel shall file a Stipulation of Settlement or a Stipulation of Discontinuance.

H. Types of Motions

1. Summary Judgment Motions. Motions for summary judgment shall be filed with the Court and served upon all parties no later than 60 days from the date of the filing of the Note of Issue. If an application to extend the time to make a summary judgment motion is granted by the Court, the moving party must indicate same in its motion papers. The filing of a motion made pursuant to CPLR 3211 or 3212 shall not stay pre-trial discovery unless otherwise ordered by the Court.
2. Motions to Renew and Reargue. All motions to renew and reargue a prior motion pursuant to CPLR 2221 must contain, as exhibits, all papers submitted on the prior motion, as well as a copy of the Court's decision on the prior motion. Failure to comply with this requirement shall result in the denial of the motion.
3. Motions for Leave to Amend, Supplement, or Correct Pleadings. On any motion for leave to amend, supplement, or correct a pleading, in addition to the proposed amended, supplemental, or corrected pleading, the moving party shall submit copies of all pleadings filed as of the date of the motion. The failure to comply with this requirement may result in the denial of the motion unless copies of the prior pleadings are submitted to the Court by another party.
4. Motions for Injunctive Relief. When an Order to Show Cause is to be presented to the Court which seeks injunctive relief, copies of the summons and complaint or petition commencing the underlying action must be provided to the Court by the moving party. The failure to comply with these requirements may result in the denial of the Order to Show Cause.
5. Default Motions. On any motion for a default judgment, proof must be presented that a military-status investigation of all defendants, where applicable, has been conducted.
6. Motion to Strike Notes of Issue. 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.

7. Judgments of Foreclosure and Sale. Counsel shall submit to the Court the previously granted Order of Reference, the Referee's Report, an Affirmation in Support of the Judgment of Foreclosure and Sale, Bill of Costs, Affirmation of Attorneys Fees and Proposed Judgment. (Note: In a NYSCEF case, the Bill of Costs must be filed as a separate document).

8. 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 trial date.

I. Decisions and Orders

In most instances, a Decision and Order will be rendered in written form following the full submission of a motion or Order to Show Cause. In certain instances, the Court may render a Decision and issue an Order orally from the Bench. In such instances, the court transcript, the cost of which shall be born equally by the parties, shall be purchased by the moving party and then served on all other parties and submitted to the Court, along with an Order to be signed by the Court, so the same can be executed by the Court and filed with the Office of the Rockland County Clerk. Indigent parties may be excused from having to pay their share for the cost of the transcripts of such Decisions and Orders whereupon the other parties will pay their proportionate share of the total cost of the transcript.

IV. TRIALS AND HEARINGS

A. Trial, Hearing and Inquest Dates

Trial, hearing and inquest dates scheduled 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. Requests for adjournments of trial, hearing and inquest dates are strongly discouraged. 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. 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 as authorized by Civil Practice Law and Rules § 2302 except as otherwise provided. As such, "so ordered" subpoenas are not generally signed by the Court .

Only a subpoena duces tecum to be served upon a library, department or bureau of a municipal corporation or of the state, or an officer thereof, must be issued by the Court pursuant to Civil Practice Law and Rules § 2307. The request for the issuance of such a subpoena must be made by 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 the 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 E-Filed, and will be addressed by the Court promptly when time sensitive. Subpoenas will be "so ordered" when the proper showing has been made.

C. Expert Witness Disclosure

All CPLR §3101(d) **expert witness disclosures** shall be completed no later than thirty (30) days prior to trial, except that the Court may shorten this requirement upon a proper application made on notice and for good cause shown. All objections to **expert witness disclosures** must be served within five (5) days of receipt of the **disclosure**.

D. Pre-Trial Requirements

i. Trial Notebooks.

No later than five (5) business days prior to the scheduled Trial date, counsel shall each provide a paginated trial notebook to all other counsel and/or pro se litigants, if applicable, and shall submit same to the Court, with tabbed exhibit dividers, and which shall consist of:

1. Marked pleadings in accordance with Civil Practice Law and Rules § 4012.
2. A 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 with a brief description of each.
6. Requests to Charge: The charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is 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.
7. 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.
8. 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, calculations of child support and maintenance (temporary and post trial).

The Court may, in its discretion, relieve counsel from all or part of the trial notebook requirements upon 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.

ii. Identification of Trial Counsel.

Attorneys are reminded that if a Trial is to be conducted by counsel other than the attorney of record, Uniform Rule § 202.31 requires that Trial counsel be identified in writing to the Court and to all parties not later than fifteen (15) days after the date of the Pre-Trial Conference, with such writing signed by both the attorney of record and the 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 Thorsen without adjournment.

iii. Pre-Voir Dire Conference.

Immediately prior to the commencement of jury selection, the Court shall conduct a pre-voir dire conference as required by Uniform Rule § 202.33(b) with all the attorneys and pro se litigants. 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.

E. 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 interest of justice.

F. Bifurcation

Unless the Court directs otherwise, 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. Trials on damages will commence immediately upon the completion of the trial on liability.

G. Non-jury Trials

Unless the Court directs otherwise, the parties shall obtain and provide to the Court, at the party's expense, at the conclusion of the trial, a copy of the trial transcript, and each party

may submit a post-trial brief 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. Along with the submission of the post-trial briefs, counsel may also present the Court with proposed findings of fact and proposed disposition.

V. SETTLED AND DISCONTINUED CASES

Counsel shall immediately notify the Court in writing of a settled or discontinued matter. Following the initial notification, counsel shall file a fully executed Stipulation of Discontinuance or Settlement with the Part Clerk. Court appearances and jury proceedings scheduled prior to the settlement or discontinuance are not excused or delayed until the fully executed Stipulation is received by the Court.

VI. MATRIMONIAL ACTIONS

A. Motions

A notice of motion for a Judgment of Divorce is required in all uncontested Matrimonial Actions unless the submitted papers include, among the other documents otherwise required by Statute or Rule: (i) an Affidavit of the Defendant admitting service of the Summons and Complaint and consenting to all of the relief requested, or (ii) an acknowledged Stipulation of Settlement executed by the Defendant addressing all of the relief requested; and, (iii) a proposed Findings of Fact/Conclusions of Law and Judgment of Divorce in the required form.

B. Trials

At the conclusion of all matrimonial trials, each side shall, within thirty (30) days of the completion of testimony, submit and serve a thorough but concise Decision, Proposed Findings of Fact/Conclusions of Law and Proposed Judgment of Divorce in the required form.