

Honorable Gail B. Rice, A.J.F.C.

Westchester County Family Court
111 Dr. Martin Luther King, Jr. Boulevard
White Plains, NY 10601
Chambers: (914) 824-5481
Chambers Facsimile (Fax): (212) 618-7981
Amended: 2/8/19

Court Clerk: Michael P. Kenny
Part Clerk: Rosanna T. Hennessy - (914) 824-5502
Court Attorney: Nicole Shivcharran, Esq. - (914) 824-5478 & nshivcha@nycourts.gov
Secretary: Elaine Fila - (914) 824-5481 & elfila@nycourts.gov

PART RULES

GENERAL: Parties and counsel must be on time for scheduled court appearances. Cases may be dismissed or an Inquest may proceed if parties/counsel are not present when the matter is called. In the event of an emergency, please notify Chambers at (914) 824-5481 or e-mail Nicole Shivcharran, Esq. at nshivcha@nycourts.gov and Elaine Fila at elfila@nycourts.gov.

NOTICE OF APPEARANCE: Retained attorneys must file a written Notice of Appearance on or before the date of his/her first appearance. In the case of Assigned Counsel and Attorneys for the Children, the Notice of Assignment/Appointment will serve as the Notice of Appearance.

COURT ROOM ETIQUETTE: All Attorneys must stand when addressing the Court on the record. Attorneys and parties should dress appropriately to conduct business with the Court. No witnesses will be allowed in Court unless they are testifying.

COURT APPEARANCES:

Preliminary Proceeding: If service of process is not completed by the Preliminary date, the case may be adjourned to complete personal service. If service is not completed by the adjourned personal service date, the case may be dismissed for lack of service unless the Court finds good cause for an additional adjournment.

Conference: After service is complete, typically the next Court appearance is a Conference. Retained and assigned counsel must contact opposing counsel and the attorney for the child to discuss the matter before appearing in Court, not the day of the Court appearance. Attorney Conferences, without parties present, with the Judge will only take place with the consent of all attorneys. Please use the Conference date as the opportunity to consult in good faith to narrow and resolve issues in dispute, to make Motions/Orders to Show Cause returnable, to file amended pleadings, to file Orders to

Produce/Bring Down Orders for the next court date, to review status of temporary Orders, review Probation Reports or Forensic Reports.

Fact-Finding Hearing: Attorneys shall obtain the Court's ruling on *motions in limine* prior to commencing trial. Do not argue proof on the record and in front of the witnesses. Counsel shall provide witness lists to the Court and opposing counsel at least ten (10) days prior to the scheduled Fact Finding Hearing. Lastly, all exhibits expected to be used at Fact Finding Hearing, whether the exhibit will be marked for identification or moved into evidence, must be pre-marked and originals and sufficient copies for all parties shall be brought to the Fact Finding Hearing. Petitioner's exhibits shall be numbered. Respondent's exhibits shall be lettered. Attorney for the Child exhibits will be designated AFC 1, 2, 3, etc.

Juvenile Delinquency and Person in Need of Supervision Proceedings:

At an Initial Appearance, Conference, or Fact-Finding Hearing, the Attorney for the Child shall inform the Court if a *Guardian ad Litem* is required when the Child's parent or legal guardian will not, or cannot, attend the court appearance or the parent or legal guardian has been adjudicated as having neglected the Child. The Attorney for the Child shall have knowledge of his or her client's placement including, but not limited to, the Court/Education District that placed him or her and how long the Child has been or will be placed.

CASE COVERAGE: Case coverage is the responsibility of the attorney of record. An attorney's failure to find coverage, submit a timely Affidavit/Affirmation of Engagement, or otherwise notify the Court of his/her inability to appear on a case, may result in the matter being reassigned to another 18B or attorney for child, or dismissed. If you find coverage you must provide the covering attorney with a selection of **dates and times** for the next court appearance, whether it will be further conference or fact finding hearing. **AS THE COVERING ATTORNEY, IF YOU DO NOT HAVE ANY DATES AND TIMES FROM THE ATTORNEY FOR WHOM YOU ARE PROVIDING COVERAGE, THE NEXT COURT DATE SHALL BE MARKED "FINAL" AGAINST THE ATTORNEY AND HIS/HER CLIENT, WHETHER IT BE FOR A NON-APPEARANCE OR A REQUEST FOR A FURTHER ADJOURNMENT ON THE NEXT COURT DATE. SANCTIONS MAY BE IMPOSED.**

SUBPOENAS: Subpoenas should be properly captioned (i.e. *duces tecum* and/or. *ad testificandum*) and filed with the Clerk's Office with proof that the proper notice was given to all attorneys, agencies, and *pro se* parties of the date the subpoena will be presented to the Court for signature. All subpoenas sent to the Court for signature must have a copy to be conformed by the Court and be accompanied by a self-addressed and stamped envelope. Absent an emergency, subpoenas seeking documents for trial purposes must be presented to the Court at least two (2) weeks before the trial is to commence.

SETTLEMENTS: Please use your best efforts to engage in settlement conferences prior to coming to court. Talk to your client and opposing counsel. If a settlement is reached prior to the scheduled Fact Finding Hearing and the settlement does not have to

be placed on the record and a stipulation can be presented to the Court, the attorney for the moving party may submit the written settlement agreement signed by the parties and the attorneys prior to the trial date to be “so ordered” by the Court. **PLEASE DO NOT WAIT UNTIL THE NEXT COURT DATE FOR A CONFERENCE OR FACT FINDING HEARING DATE TO INFORM THE COURT THAT YOUR CASE HAS BEEN SETTLED. WHEN THE MATTER IS SETTLED, IMMEDIATELY ADVISE THE COURT SO THAT THE TIME SCHEDULED FOR THE FACT FINDING HEARING CAN BE IMMEDIATELY RESCHEDULED FOR ANOTHER MATTER.**

ORDERS:

Temporary/Interim Orders: The Court prefers that all Orders be computer generated. However, if a temporary or interim handwritten Short Form Order is necessary, the Short Form Order must be written in **BLACK** ink or it will not be accepted by the Court. All handwritten Orders must be neat and legible. If the Order is not legible, it may be returned to the writer and this may prolong the resolution of the case. If the Order is returned, the writer may be directed to submit a printed, computer generated Order by a date and time selected by the Court. Failure to comply with the directive of the Court to submit an Order, may result in dismissal of the case or reassignment of the 18B attorney or attorney for the child.

Final Orders: At the conclusion of the matter, one (1) original and one (1) copy of the proposed Order(s) must be submitted with Notice of Settlement to the Court within two (2) weeks from the date the matter is resolved, unless otherwise directed by the Court. The Order cannot be two-sided or single spaced. All Orders or Stipulations, to be “so ordered”, sent to the Court for signature must have a copy to be conformed by the Court and be accompanied by a self-addressed and stamped envelope. If there is opposition to a proposed Order, the objecting attorney or party shall negotiate in good faith to resolve the language/provision being objected to. If the objection cannot be resolved, then the objecting attorney or party shall submit a proposed Counter Order to the Court prior to the Notice of Settlement date set forth on the initial proposed Final Order, unless otherwise directed by the Court. If no proposed Counter Order is received, the Court may sign the proposed Order or modify said Order *sua sponte*.

Proposed Orders that do not reflect the Court record may be returned unsigned or ignored by the Court. If the submitting attorney was not present for the settlement or does not remember the proceedings upon which the proposed Order is based, the submitting attorney should obtain a copy of the transcript before submitting any proposed Order to the Court.

If there is a "SO ORDERED" stipulation, the Judge's signature shall be the very last signature line on the entire document, after all parties/counsel have signed the stipulation.

Any Order or stipulation may be returned to the sender if it is found to be defective by the Court, whether it be numbering, pagination, signatures, grammar or language.

The proposed original Order shall be sent to the Court by mail or hand delivery on or before the date the writer was directed by the Court to file the proposed Order with the Court.

CORRESPONDENCE/COMMUNICATION WITH THE COURT: All written correspondence directed to the Court's attention shall be copied to all parties or their counsel and the Attorney for the Child(ren). Failure to copy correspondence to parties or counsel will result in the correspondence being returned to the sender without consideration by the Court.

All written correspondence shall include a file number, the relevant docket number(s), the names of the parties and the sender's contact information, including a mailing address, e-mail address, and telephone and facsimile (fax) numbers. The Court does not expect to be copied on correspondence between counsel and/or *pro se* litigants.

When sending a facsimile (fax), **please only use facsimile (fax) number (212) 618-7981**. Do not send any correspondence/communication by more than one method, such as fax and mail.

ADJOURNMENTS:

All adjournments must be approved by the Court even where parties and counsel have consented to the adjournment. If not approved, there is no adjournment and you and your client must attend Court. If you and/or your client do not attend, the matter may be dismissed and sanctions may be imposed.

Any request for an adjournment shall be made in writing to the Court. Facsimile (fax) or E-mail adjournment requests are acceptable to the Court sent to Court Attorney, Nicole Shivcharran, Esq. At nshivcha@nycourts.gov and the secretary, Elaine Fila at elfila@nycourts.gov. Every adjournment request shall contain a written indication that it has been copied to all parties or their counsel. **It is unnecessary to send original correspondence to the court via first class mail if correspondence has been sent via facsimile or e-mail.**

If you are requesting an adjournment because you are engaged in a different court proceeding, your adjournment request must be in accordance with the Uniform Rules for the Engagement of Counsel, Section 125.1 of the Rules of the Chief Administrative Judge.

All adjournment requests, other than emergencies, shall be made at least two (2) business days prior to the scheduled appearance and shall indicate the reason for the adjournment request. The adjournment request shall also indicate whether the request is on consent of all counsel and/or parties and shall include at least **three dates and times** that all counsel and/or parties are available. NOTE: Typically due to the Court's busy calendar, an adjournment will probably be for approximately thirty (30) days from the adjourned date. Adjournment requests due to attorney engagement in another court must be made pursuant to 22 NYCRR §125.1. If the request for an adjournment involves a medical issue, a medical provider's note may be requested by the Court. Adjournment requests will be evaluated on a case-by-case basis. Requests for an adjournment received by the Court twenty-four (24) hours (or less) before the scheduled court appearance will not be granted absent good cause or consent of the other attorney(s) or *pro se* litigant(s) and the request shall contain a minimum of three (3) agreed upon adjournment dates and times that are available dates for the Court.

If an adjournment request is granted, the Court will notify the requesting party. The requesting party shall immediately notify all parties or their counsel, including the Attorney for the Children, of the adjourned date and shall send correspondence to the Court via facsimile (fax) or e-mail, copied to parties or their counsel, confirming notification of the adjourned date and time.

NOTE: If there is no response from the Court regarding the request for an adjournment, assume that the request has been denied and you must appear before the Court, or obtain knowledgeable coverage to appear before the Court on the scheduled date.

PETITIONS/ORDERS TO SHOW CAUSE: All Petitions or Orders to Show Cause shall be filed with the Clerk's office and not Chambers. If counsel is filing an Order to Show Cause, counsel must include a list of dates and times that they are available for a preliminary proceeding or return date for the Order to Show Cause; otherwise the case will be scheduled by the Court. If the Order to Show Cause requests interim relief, the Order to Show Cause must comply with Court Rule 22 NYCRR 202.7.

MOTIONS: All motions shall be filed with the Clerk's office and shall comply with the CPLR. Motions shall be decided on the filed Motion papers only unless the Court notifies you otherwise. The Court may, in its discretion, schedule an appearance on the Motion and the Court will notify the parties or counsel of the appearance date and time.

Decisions on Motions may be rendered from the bench or done in writing. Written Decisions will be mailed to counsel or *pro se* parties only if counsel and/or *pro se* parties have provided the Court with a self-addressed stamped envelope with sufficient return postage. Otherwise a Decision on Motion will be available at the Clerk's Office.

NOTICES OF ASSIGNMENT & VOUCHERS: Questions regarding Notices of Assignment shall be directed to the Part Clerk, Rosanna T. Hennessey (914) 824-5502. Questions regarding vouchers shall be directed to Judge Rice's Secretary, Elaine Fila (914) 824-5481. All vouchers should be submitted in triplicate (original and two (2) copies) together with a stamped envelope addressed to either Legal Aid or the Appellate Division. Each voucher must be stapled individually. If an attorney is seeking payment on a case in excess of the maximum amount allowed, that attorney must submit a separate Affirmation detailing the reason for same.

INTERPRETERS: Typically, Spanish speaking interpreters are available on most days that the Court is in session, subject to availability. If a party requires the services of a non-Spanish speaking interpreter or sign language interpreter, the party or counsel requesting such service must notify the Court as soon as possible so that appropriate arrangements can be made. Please make an effort to notify the Court at least two weeks in advance of any scheduled appearance to insure the availability of the interpreter.

FORENSIC EVALUATOR REPORTS: All forensic evaluator reports shall be admitted as evidence in chief without the necessity for independent foundation testimony or evidence and shall be subject to cross examination. Any party that wishes to cross examine the forensic evaluator shall bear the cost of the forensic evaluator's services in preparing for such testimony, traveling and testifying, unless otherwise directed by the Court or agreed by the parties in writing.

Nothing further below this line -----