

**MATRIMONIAL PART RULES
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF THE BRONX
PART IA-29
Hon. Paul L. Alpert, AJSC**

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GENERAL PART RULES

All calendars will be called at 9:30 a.m. in Part IA-29. If parties fail to check in by 11:00 a.m. this may result in a default or a dismissal of their case.

All adjournments require the prior approval of the court. However, the Preliminary Conference may be adjourned on consent by written stipulation up to the date that is 45 days from the filing of the RJI. A Compliance Conference may be adjourned once on consent by written stipulation, for up to 60 days, provided the adjourned date is not more than 6 months from the date the RJI was filed.

Applications for adjournment must be made to chambers via conference call with all attorneys on the line. If an adjourned date is assigned, a faxed stipulation must be sent to chambers the day prior to the scheduled appearance. All adjournments are subject to the final approval by the Judge.

All adjournments on the grounds of engagement of counsel shall be granted only in accordance with Part 125 of the Rules of the Chief Administrator of the Courts. Affirmations must be faxed to the court at least one (1) day prior to the court appearance.

Counsel is expected to appear unless the adjournment is specifically granted by the court.

All parties must be present for all appearances and conferences, unless a party is excused by the court in advance of the court date. In the event the party is unavailable or excused, the attorney appearing for that client must have authority to proceed on his or her behalf, or state otherwise on record. Silence in this regard shall be an indication that the attorney has implied authority to proceed.

Ex parte communications will not be entertained by chamber's staff or the court.

Copies of correspondence between counsel are not to be sent to chambers.

Litigants are to be advised by counsel that communication with chamber's staff or the court is not permitted at any time when they are represented.

MOTIONS

Oral argument is required on all motions and orders to show cause. Counsel and the parties are required to appear personally on all motions.

Counsel are required to file all responsive papers with the Matrimonial Clerk's Office, at 851 Grand Concourse, Room 217, two (2) days before the return date of the motion. All exhibits are to be identified by tabs, cross motions are to be filed with the Matrimonial Clerk's Office at least two (2) days prior to the return date.

Motions to consolidate Family Court proceedings must include a complete copy of the Family Court petition and any Family Court order in effect at the time the motion is made.

Motions may be adjourned on consent up to 45 days from the original return date of the motion. Counsel are directed to submit a written stipulation reflecting their consent which must include several available dates. Further requests for adjournments will require the attorneys for the parties to appear personally or by conference call to chambers.

Counsel are reminded that the CPLR does not provide for sur-reply papers or allow the presentation of papers or letters to the court after argument of a motion. Sur-replies, letters and the responses to such letters addressed to the substance of motions will not be considered.

Any allegations of fact submitted to the court, including allegations contained in an affidavit and/or the complaint, must be certified by counsel in the form prescribed by the Chief Administrative Judge.

The court requests that courtesy copies of all motion papers be delivered to chambers.

EX PARTE APPLICATIONS

Any application for temporary injunctive relief shall contain an affirmation demonstrating there will be significant prejudice to the party seeking the restraining order by giving notice. In the absence of a showing of significant prejudice, an affirmation must demonstrate that a good faith effort has been made to notify the party against whom the restraining order is sought in accordance with 22 NYCRR 202.7.

ORDERS OF PROTECTION

Ex-parte requests for orders of protection must be accompanied by a completed Family Protection Registry Information Sheet and the applicant must be present in court.

SUBPOENAS

Counsel is reminded of their authority to issue subpoenas under applicable law. All subpoenas submitted to chambers must be on notice unless otherwise instructed by chambers. Subpoenas seeking documents from a state agency or municipality must be served in compliance with CPLR 2307.

PRELIMINARY CONFERENCE

The preliminary conference will be held on a date selected by the court. The conference must be held within 45 days of the filing of the RJI. The party seeking judicial intervention is required to notify the opposing party of the preliminary conference date. If the opposing party is self represented, the court will send out the notification. There will be no adjournments on the preliminary conference beyond the 45 days from the filing of the RJI without express permission from the court. Counsel are reminded that pursuant to 22 NYCRR 202.16(f)(1), Net Worth Statements are to be filed with the court 10 days prior to the preliminary conference date. They are to be accompanied by the items listed in said section which include the attorney's retainer statements, the parties' recent pay stubs, the end of year pay stubs for the pervious calendar year, as well as W-2 statements, 1099's and K-1 forms.

COMPLIANCE CONFERENCE

The date of the compliance conferences will be selected by the court at the preliminary conference.

Counsel should not wait until the date of the compliance conference to bring to the court's attention their adversary's failure to comply with preliminary conference directives and/or discovery orders. Such failure must be addressed prior to the compliance conference either by motion or conference call to chambers. Failure to timely comply with court-ordered discovery may result in the imposition of sanctions and/or counsel fees.

PRE-TRIAL CONFERENCE

The Note of Issue shall be filed prior to the pre-trial conference and in accordance with the compliance order. At the pre-trial conference, counsel will provide the court with Statements of Proposed Disposition, (See, 22 NYCRR 202.16[h]), updated net worth statements with the last three years of tax returns and a child support worksheet, if applicable. Counsel shall present all motions *in limine* at this conference.

Once a case has been assigned a trial date, it is presumed ready for trial. No consent adjournments will be accepted. Failure to proceed will result in default relief being granted or the action being dismissed. In the event the action is resolved prior to the court date, counsel are expected to notify chambers immediately.

TRIAL

The court is to be provided with the following no later than 30 days prior to the first day of trial:

1. Marked pleadings
2. Updated Statement of Net Worth, Statement of Proposed Disposition, and child support worksheet, if not provided at the pre-trial conference
3. A witness list, expert reports not previously filed, and any pre-trial memorandum of law
4. A list of all proposed exhibits
5. A list of documents which counsel may stipulate into evidence
6. A written list of facts to which the parties can stipulate in advance of trial. Said stipulation shall be read into the record at the commencement of the trial.

Counsel are reminded that pursuant to 22 NYCRR 202.16(g), all experts' reports are to be exchanged and filed with the court 60 days before the date set for trial. Reply reports, if any, shall be exchanged and filed no later than 30 days before said date.

Sanctions and/or costs may be imposed for failure to comply with any rules set forth herein.

The court is to be provided with duplicates of all items marked into evidence.

The court may direct one or both parties to order the transcript and allocate the costs.

MISCELLANEOUS

All judgments shall include a completed copy of the Matrimonial Term Clerk Offices' contested judgment check list indicating all necessary attachments. All judgments must be submitted within 60 days or the action will be deemed abandoned and dismissed. All QDROs must be submitted within 45 days of the signing of the judgment and must be accompanied by written plan approval. Counter judgments must be submitted within the statutory time limit or they will be rejected.

All vouchers for payment shall be submitted to the part clerk for approval. Attorneys who are appointed via Part 36 are reminded of their obligation to send a copy of the order of appointment to the Fiduciary Clerk.