

**SARATOGA COUNTY SURROGATE’S COURT / COUNTY COURT**  
**Local Court Rules of the Honorable Jonathan G. Schopf, Surrogate**

*Effective February 6, 2024*

Please contact Chambers if you have any questions concerning these Rules.

Law Clerk:

Michael Carota, Esq. – [mcarota@nycourts.gov](mailto:mcarota@nycourts.gov)

Confidential Secretary:

Kim Degener – [kdegener@nycourts.gov](mailto:kdegener@nycourts.gov)

Address:

Chambers of the Surrogate  
Saratoga County Courthouse  
30 McMaster Street, Building 3  
Ballston Spa, New York 12020

Phone: 518-451-8830

Email: [chambersjschopf@nycourts.gov](mailto:chambersjschopf@nycourts.gov)

The Surrogate’s Courtroom is located on the second floor of the Courthouse, in Part 3.

**All Local Chambers rules are in addition to those promulgated under 22 NYCRR Part 202 and 207 and are subject to change in the Court’s discretion as to meet the circumstances of any particular matter.**

To the extent that the SCPA, CPLR, and/or Uniform Rules of practice for the Trial and/ or Surrogate’s Court conflict with these local rules, the following rules shall take precedence and shall apply:

**1.0 – Submission of Papers.**

- 1.1** Surrogate’s Court is an e-filing court. All newly commenced proceedings shall be e-filed. All filings in Surrogate’s Court are required to be filed electronically through the New York State Courts E-filing System (NYSCEF). All submissions to the Court, including proposed Decrees, Orders, Judgments, Subpoenas, and correspondence must be electronically filed. Chamber’s paper copies of all motion documents with exhibits clearly tabbed shall be provided to Chambers prior to the return date. Other than motion documents, the Court does not require paper courtesy copies of any documents, unless otherwise directed in cases where there are voluminous filings.
- 1.2** Parties involved in e-filed cases shall familiarize themselves with the statewide E-Filing Rules available online at [www.nycourts.gov/efile](http://www.nycourts.gov/efile). General questions about E-Filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or [nyscef@nycourts.gov](mailto:nyscef@nycourts.gov) and not to the Chief Clerk, Clerk’s staff or Chambers.

- 1.3** Surrogate's Court staff and Chamber's staff cannot give legal advice. Unrepresented ("pro se") parties can find many helpful resources at: [www.nycourts.gov/courthelp](http://www.nycourts.gov/courthelp)
- 1.4** When directed by the Court to prepare a proposed Decree, Order, or Judgment (collectively "Order") Counsel shall agree upon the form and content of such Order without involvement or communication with the Court Clerk or Chambers. Should counsel be unable to agree, a conference shall be requested for purposes of settling the Order at issue.
- 1.5** Once submitted for signature, such Order shall be accompanied with a letter from the submitting counsel stating that all counsel has approved the Order as to form and content. In the absence of approval as to form and content, and if an agreement on the language of the Order cannot be reached after the request for and conduct of a conference required by 1.4 above, notice of settlement procedure provided in the Uniform Rules for Trial Courts (22 NYCRR) § 202.48 shall be used. The Judge's signature line should not be on a page by itself without a header.
- 1.6** Notwithstanding the foregoing, if a proposed Order is submitted to Chambers on notice to the appearing parties, and no objection to the form/content of the Order is received within one week of the date of e-filing, the Court reserves the right to treat the form and content thereof as unopposed and issue the Order.
- 1.7** All counsel and unrepresented parties shall be carbon copied ("cc'd") on all communications to chambers.

## **2.0 - Submission and Form of Exhibits.**

- 2.1** Counsel/ parties shall prepare, in advance, sufficient copies of their exhibits so that each party or their counsel is provided with a copy at the hearing/ trial of the exhibit being introduced. For virtual Surrogate's Court matters, all Exhibits shall be transmitted to the Court Clerk's Office via electronic mail to: [lhasting@nycourts.gov](mailto:lhasting@nycourts.gov) forty-eight (48) business hours in advance of all hearings or trials. For all other County Court matters, such exhibits shall be transmitted via electronic mail to: [kdegener@nycourts.gov](mailto:kdegener@nycourts.gov) forty-eight (48) business hours in advance of all trials.
- 2.2** Such exhibits shall, in all cases, be pre-marked with identifying labels commonly used by, or substantially similar to those used by the Clerks and Court Reporters of the Unified Court System. Petitioner/Movant/Plaintiff's exhibits are to be numbered and Respondent's/Objectant's/Defendant's exhibits are to be lettered.
- 2.3** Counsel/parties must confer before the appearance in regard to stipulating to their respective exhibits' admissibility. Any exhibits not so stipulated shall be ruled upon with regard to their admissibility at the time offered.

**2.4** Individual exhibits which exceed five (5) pages shall be “Bates” stamped or otherwise paginated in such a manner that does not interfere with the authenticity or readability of the document.

**2.5** The Court cannot insert USB flash drives, CD’s, DVD’s, jump drives, SD cards, external hard drives or other electronic media into computers of the NYS Unified Court System. Any attorney/ party wishing to submit electronic evidence such as audio or video files shall provide a USB flash drive marked as an exhibit which contains the material intended to be presented to the Court. Anyone wishing to play audio/ video evidence as part of a proceeding shall contact the Chief Clerk at least a week prior to the scheduled appearance date to make arrangements. Counsel shall provide their own laptop to insert electronic media and to play the media.

### **3.0 – Communication with Chambers, Adjournments, and Settlements Prior to Hearing or Trial.**

**3.1** Requests for adjournment absent a *bona fide* emergency shall be made at least seventy-two (72) hours in advance via an email to chambers at: [chambersjschopf@nycourts.gov](mailto:chambersjschopf@nycourts.gov) and copying the Chief Clerk at: [lhasting@nycourts.gov](mailto:lhasting@nycourts.gov). All opposing parties shall also be copied.

**3.2** Requests to mark a matter off the calendar as settled or resolved shall be made in writing by the requestor at least twenty-four (24) hours in advance of the scheduled appearance via an email to chambers at: [chambersjschopf@nycourts.gov](mailto:chambersjschopf@nycourts.gov), copying the Chief Clerk at: [lhasting@nycourts.gov](mailto:lhasting@nycourts.gov), and copying all other counsel. All counsel shall reply to such email and affirmatively state that they are in agreement that the matter is settled or resolved as stated by requestor.

**3.3** Chambers hours are 9:00 a.m. until 5:00 p.m. Surrogate’s Office staff may answer the phone between the hours of 9:00 and 5:00. If the phone is not answered, voicemail will take messages and calls will be returned as soon as possible. Please do not make multiple calls or leave duplicate messages.

**3.4** Requests to schedule a conference should be done by email and should include the reason for the conference.

**3.5** Unless specifically requested, the Court does not wish to be copied on contentious correspondence between counsel. Rather, if assistance is needed in resolving an issue, counsel may either request a conference or file a motion. Prior to filing a motion to resolve a discovery issue, counsel shall request a pre-motion discovery conference.

### **4.0 – Conduct of Calendar Dates, Hearings, and Trials.**

**4.1** Generally, all Surrogate’s Court appearances are scheduled for a general calendar call on Wednesdays which begins at 10:00 a.m. in the second floor Part 3 courtroom at 30 McMaster Street, Ballston Spa, New York unless the parties are specifically advised otherwise by the

Court. Please be prompt for your scheduled appearance time. Defaults in appearance may be taken on the record at or after one hour past the scheduled appearance time. At 10:00 a.m. citation return dates, oral argument, special proceedings, compliance, status, and any other conferences may proceed on cases in which all attorneys and necessary parties are present and have checked in with the Court Officer on duty.

- 4.2** The Court considers each conference appearance to be both a settlement and compliance conference. Counsel attending the conference must be fully familiar with the case and have authority to enter into binding stipulations, and the parties, their representatives and/or representative(s) of insurance carrier(s) or financial institutions may also be required to attend, in person or by telephone. All counsel shall confer prior to the date of the conference to discuss settlement and the resolution of any triable issues.
- 4.3** All appearances, hearings, and trials are conducted in person, unless prior permission has been granted based upon a request made to chambers via electronic mail at least seventy-two (72) hours in advance of such appearance. All parties, witnesses, and counsel requesting such accommodation must have a valid e-mail address and a stable internet connection.
- 4.4** All appearances by counsel shall be made by attorneys with knowledge of the facts of the case and vested with authority to enter into stipulations and/or dispositions which bind their respective clients.
- 4.5** All persons appearing virtually shall be appropriately dressed and seated in full view of the camera. If the person appearing virtually is a party or a witness, no other persons shall be present in the room with the party or witness. Parties and witnesses shall not use background filters.
- 4.6** For witnesses for whom permission has been granted to appear virtually, counsel for all parties shall submit all pre-marked exhibits to such witness via electronic mail at least forty-eight (48) business hours in advance of the scheduled time for the hearing or trial.

## **5.0 - Motions.**

- 5.1** Motions shall be made returnable on Wednesdays at 1:00 PM in accordance with the filing and service requirements imposed by the SCPA and/ or CPLR. Counsel shall appear on that date and time prepared for oral argument, or as otherwise notified by the Court.
- 5.2** The Court may re-schedule the date and time for oral argument. In such instance the return date for submission of papers shall remain as originally set by movant.
- 5.3** In those cases which pre-date e-filing and have not been converted to e-filing, original motion papers should be filed with the Chief Clerk, accompanied by the requisite filing fee, if applicable. The Clerk will then forward the original papers to Chambers. Original opposition and reply papers should be sent directly to Chambers.

- 5.4** Other than motion papers, do not submit courtesy copies to Chambers, unless directed by Chambers or the Chief Clerk. In those cases which are e-filed, all motion papers should be filed via NYSCEF.
- 5.5** Counsel and self-represented parties are reminded that neither the SCPA nor the CPLR provide for the submission of sur-reply papers, however denominated, or the presentation of papers or letters to the Court after the return date of a motion. Nor is motion practice by correspondence permitted. Any counsel or self-represented parties who receive a copy of such materials submitted in violation of this rule shall not respond in kind.
- 5.6** Reply papers should not raise issues that were not previously raised in the moving or opposition papers. Attorney Affirmations should not present facts for which the attorney does not have personal knowledge of.
- 5.7** Papers shall not be submitted via e-mail.
- 5.8** Papers should be timely served on all counsel, unrepresented parties and interested parties in accordance with both the SCPA and/or the CPLR, as applicable. In the event papers are not served in a timely manner, the Court reserves the right to adjourn the return date of the motion, or re-issue a Citation to ensure that proper service will be made.
- 5.9** Adjournment requests for a return date of a motion shall be made to the Court in writing at least seventy-two business hours before the scheduled return date of the motion. Requesting counsel shall confer with opposing counsel(s) prior to making the request and shall specifically indicate if the request is on consent.
- 5.10** Adjournments are limited to sixty (60) days in accordance with the Uniform Rules for Trial Courts (22 NYCRR) §202.8 (e) (1).
- 5.11** No discovery motion may be filed unless counsel personally confer to resolve the discovery issue in accordance with Uniform Rules of Trial Courts (22NYCRR) § 202.7 and, further, the motion papers demonstrate compliance with that section. A conference with the Court shall also be requested and be conducted prior to the filing of such a motion.
- 5.12** For an Order to Show Cause that seeks a preliminary injunction or Temporary Restraining Order pending the return date, Uniform Rules for Trial Courts (22 NYCRR) § 202.7 (f) must be followed by giving notice to the opposing party or, alternatively, submitting an affirmation to demonstrate that prejudice would result from the giving of notice.
- 5.13** Please call Chambers immediately, 518-451-8830, after the filing of an Order to Show Cause, which addresses an urgent matter of genuine and legitimate emergency, so that the Court can ensure it receives immediate attention.

- 5.14** All proposed Orders to Show Cause shall include blank lines for the insertion of a date by the Court for the submission of opposition and reply papers.

**6.0 – Conduct of Trials and Hearings.**

- 6.1** Unless otherwise ordered by the Court, expert disclosure shall be provided by the Petitioner/Plaintiff/ Movant sixty (60) days before the scheduled trial or hearing. Expert Disclosure shall be provided by Respondent(s)/Defendant(s) thirty (30) days before trial.
- 6.2** Motions *in limine* are to be fully submitted fourteen (14) days before trial with a courtesy copy to chambers on paper. All opposition papers are due nine (9) business days before the trial starts and reply papers are due four (4) business days before the trial starts.
- 6.3** At least five (5) days prior to trial, counsel/ parties shall provide the Court with printed copies of the following papers and documents (counsel/ parties shall provide a copy electronically or in paper to their adversary):
- 6.3.1 Marked pleadings and amendments thereto and all bills of particulars served.
  - 6.3.2 An exhibit list of pre-marked exhibits for both the Court and the stenographer/ Court Clerk.
  - 6.3.3 A list of proposed witnesses, including the need for an interpreter if necessary, to be called at trial, including expert witnesses, with the information required pursuant to CPLR §3101(d)(1)(i).
  - 6.3.4 A pre-trial memorandum in letter format not to exceed five (5) pages, setting forth your position, the relevant factual and legal issues to be tried, and citing all relevant statutes and case law which you feel support your position. Such memorandum shall include your present settlement position and the estimated length of trial.
  - 6.3.5 If applicable, counsel must provide the Court with the following: a list of applicable PJI sections and any other requested jury charges; each party's contentions; and a proposed jury verdict sheet.
    - 6.3.5.1 Counsel shall cooperate to prepare an agreed-upon verdict sheet. If that is not possible, then the parties shall submit separate proposed verdict sheets following the suggested forms in the PJI. Each question shall be on a separate page. All verdict sheets shall be submitted in writing and Word format, via e-mail to [chambersjschopf@nycourts.gov](mailto:chambersjschopf@nycourts.gov) .
    - 6.3.5.2 A charge conference will be held prior to summations, at which time counsel may supplement or amend their previously submitted requests to charge.
- 6.4** Jury selection shall follow one of the authorized methods contained within the Uniform Rules for Trial Courts 22 NYCRR §202.33 (f), as the parties may agree. The Court may preside over a portion of, or the entire, jury selection process. Time limits on counsel may be imposed.

- 6.5** Parties and all witnesses expected to testify at the commencement of the hearing/ trial are to be present at the Courthouse ready to begin any proceedings at 9:30 a.m.
- 6.6** All fact witnesses will be excluded from the courtroom until such time as they testify. Expert witnesses are generally exempted from this exclusion requirement.
- 6.7** If any experts testify, they must bring their original files with them. Also, at the time that any expert testifies, counsel shall provide the Court a copy of the expert's response or the expert's report.
- 6.8** In respect to objections, it is the Court's preference that when counsel objects to include the basic legal ground for the objection. The Court will make a ruling and the hearing/trial will continue.
- 6.9** If there are any pre-trial matters to be discussed, the Judge will conference with counsel in chambers or the courtroom at 9:00 a.m. and begin testimony at 9:30 a.m. Please have witnesses scheduled and present in advance.
- 6.10** Counsel/parties are asked to cooperate, in the event that any witnesses are to be taken out of order so that the trial will continue to move along in an efficient manner.
- 6.11** Please contact the Chief Clerk directly in advance of trial should counsel intend to present any video or audio evidence. Counsel is responsible for providing their own laptop to present audio and/or video evidence.
- 6.12** Any records that have been subpoenaed to the custody of the Chief Clerk may be reviewed by counsel/parties in advance with an appointment being made with the Clerk's office, but may not be removed from the Clerk's Office.
- 6.13** Post-trial motions may be presented orally or in writing.
- 6.14** For non-jury trials and hearings, proposed Findings of Fact and Conclusions of Law shall be submitted by each party. In addition to e-filing, the proposed findings of fact and conclusions of law shall be submitted in writing in Microsoft Word format via email to [chambersjschopf@nycourts.gov](mailto:chambersjschopf@nycourts.gov). All citations within the proposed findings shall be to the record. The parties shall provide to the Court a transcript of the entire trial or hearing and shall agree amongst themselves as to the cost sharing of such transcript.
- 6.15** For all County Court civil cases, if a case has been settled or otherwise disposed, counsel shall promptly advise the Court, in writing, and ensure that a Stipulation of Discontinuance is promptly filed, prior to the next scheduled appearance before the Court. A copy of the filed Stipulation of Discontinuance shall be provided to Chambers.