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MOTIONS:

ERIE COUNTY: Most Fridays beginning at 1:30 p.m. but, check with Court Chambers to confirm.

NIAGARA COUNTY: Matrimonial motions will generally be heard on Mondays throughout the day but may also be on the Friday calendar or such other times as scheduled by the court. These motions will be via MICROSOFT TEAMS or in person as determined by the Court and will require attorney appearances.

For all matters assigned to this Court subject to e-filing, all submissions, including motions, proposed orders and proposed judgments must be electronically filed. All parties should familiarize themselves with the statewide E-Filing Rules (Uniform Rules §§202.5-b and 202.5-bb) and the Joint Protocols for cases filed in Erie County Supreme Court (found at:

<http://www.nycourts.gov/COURTS/8jd/pdfs/efile/ErieProtocols080417.pdf>).

General questions about E-Filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov. Specific questions for Erie County matters should be addressed to the Chief Clerk's Office at (716) 845-9301 or the County Clerk's Office at (716) 858-8797.

Concerning motions, this Court does not want working copies but may request the same in specific instances [See Uniform Rule §202.5-b(d)(4)]. Any working copies requested should be delivered or mailed directly to Chambers noted above. All such working copies must include a copy of the NYSCEF Confirmation Notice firmly fastened as the front page of the submission and comply with other requirements set forth in the Joint Protocols for Erie County

Supreme Court cases. Working copies without the Confirmation Notice will not be accepted. In addition, this Court will reject any “hard copy” submissions [See definition contained in Uniform Rule §202.5-b(a)(2)(vi)] 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) and are unbound as required by the Joint Protocols for Erie County Supreme Court cases.

Motion practice pursuant to CPLR. Original papers in matters not subject to e-filing are to be provided to the Court simultaneously with service on all parties. All papers must be received by the Court at least two (2) business days before the return date. Late submissions may result in an adjournment at the Court’s discretion or refusal by the Court to consider the untimely submission.

Adjournments are granted upon consent of opposing counsel but, if counsel refuses, the Court has a liberal adjournment policy of motions made within the minimum time limits of the CPLR and may grant an adjournment upon request, even if opposed. This is especially true if the papers were hand delivered to opposing counsel or e-filed immediately before a weekend or holiday and for summary judgment motions. Counsel should keep in mind the Standards of Civility (Appendix A to 22 NYCRR part 1200) in all dealings with counsel and the Court. Motions must be adjourned to a specific date; general adjournments will not be permitted. Requests for adjournment of motions where opposing counsel does not consent, should be made by conference call to the Court.

Please note: adjournment requests should be made by email to Siobhan McMahon and David Caywood shmcmaho@nycourts.gov; and dcaywood@nycourts.gov; please do not file letter requests for adjournments on NYSCEF.

Motions to resolve discovery disputes shall be accompanied by an affidavit of good faith attempt at resolution. **Letters between counsel are insufficient.** There must have been a conversation between counsel to attempt to resolve discovery disputes. Summary judgment motions must be timely made pursuant to CPLR §3212(a), unless otherwise directed by the Court.

Pursuant to the Uniform Civil Rules for the Supreme Court § 202.8-f, all motions will be decided on submission. Oral argument may be granted, if

requested, on a case-by-case basis as determined by the Court. If oral argument is granted, a date and time will be supplied by the Court. Discovery motions may be subject to a conference with the Law Clerk prior to argument on the return date.

All orders must be submitted with an indication that the order has been sent to all opposing counsel or pro se litigant. Orders will not be signed without proof of opportunity of opposing counsel or pro se party to review.

All requests for TROs must comply with Uniform Rules for Trial Court §202.7(f). Requests for TROs on cases assigned to another judge will be considered only upon approval of the IAS judge or his/her law clerk except in cases where both are unavailable.

CONFERENCES:

Civil: Pretrial conferences will be scheduled upon the Court's receipt of an RJI and/or calendar Note of issue. Pleadings and a brief summary of the case in letter form are required in advance of the conference. Any request for an adjournment shall be made to the Judge's secretary and confirmation of all adjournments and notice of rescheduled dates must be made in writing (e-mail preferred) to all parties and the Court.

Matrimonial: Preliminary conferences scheduled pursuant to Matrimonial Rules. One adjournment without Court permission; thereafter, prior consent of the Court required.

TRIALS and REFERENCES:

Adjournments are granted by permission of the Judge only. Deadlines on expert disclosure shall be set by the Judge on a case-by-case basis. Pleadings and list of witnesses (both expert and lay) should be sent to the Court one (1) week in advance of jury selection; the exception being in medical malpractice cases for expert name disclosure. Motions *in limine* to be submitted prior to jury selection and heard thereafter as scheduled by the Court. Proposed requests to charge and verdict sheets shall be submitted on the first day of proof. The Court's preference is to receive these by e-mail with the requests attached. They may be supplemented upon the conclusion of proof. Charge conference by informal

discussion to be held at or near close of proof with results put on the record upon request.

Pre-trial memoranda for matrimonial and other non-jury trials to be served and submitted to the Court two (2) weeks before the first day of trial.

References will be made to the Law Clerk to hear and report in matrimonial actions on stipulation regarding contested economics, post-divorce arrears and post-divorce modifications. References to Court Attorney Referee's (CARS) to hear and report on any issue shall be at the discretion of the Judge or to hear and determine on consent of all parties.

SPECIAL REQUIREMENTS ON POLICY LIMITS CASES:

If a case with a value in excess of the policy limits is being settled for available insurance coverage, be prepared to submit an affidavit from the insured detailing their knowledge of insurance coverage, an affidavit from counsel offering the policy limits detailing their activities in ascertaining the existence of all available insurance coverage, and an affidavit from a principal with the insurance company swearing they have no knowledge of any other insurance coverage.