

Hon. John B. Licata, J. S. C.
50 Delaware Avenue, Part 36
(Courtroom and Chambers on Tenth Floor)
Buffalo, New York 14202
(716) 845-9492
jblicata@nycourts.gov

Law Clerk	Gary A. Wilson, Esq.	gawilson@nycourts.gov	(716) 845-9493
Secretary	Catherine Carney	ccarney@nycourts.gov	(716) 845-9492
Court Clerk	Maria Scheffler	mscheffl@nycourts.gov	(716) 845-2552

GENERAL PART 36 RULES

- Rule #1: Be considerate.
Rule #2: Be prepared.
Rule #3: Be cooperative.
Rule #4: Repeat as necessary.

ADJOURNMENTS

Preferred practice is for counsel to seek an adjournment earlier than the day before the motion or other court appearance is scheduled. All requests for adjournments must be approved by the court and will only be approved after consent is sought from opposing counsel. Such consent should not be unreasonably withheld. When no consent is obtained, the issue of adjournment will be promptly decided by the court. Stipulated adjournments must be confirmed via e-mail to chambers, including the court clerk, and a new date will be assigned. The court is aware that all laws bend before Murphy's Law - so adjournments can be requested on the return date of the appearance but be prepared to speak directly with the judge.

SUBMISSIONS

All submissions will be reviewed using the NYSCEF platform. The court would greatly appreciate the courtesy of e-mail PDF copies of all affidavits, affirmations, and briefs [not the exhibits] to the judge and law clerk. DO NOT send hard copy duplicates by mail or hand delivery unless otherwise advised. Whenever counsel cites a decision or other authority not readily available to this court, a PDF copy of it should be submitted via e-mail with the motion papers.

Due to COVID-19 restrictions, **until further notice** -- motions and scheduled compliance conferences will be conducted by telephone or videoconference unless otherwise notified by the court to appear in person. Court Chambers will establish contact using the e-mail address or primary telephone number provided by counsel in communications to the court, as applicable this may be the preliminary matrimonial information sheet to be submitted to this part. (That sheet appears in Appendix A to these rules and an electronic copy of that document may be obtained by contacting Catherine Carney via e-mail.)

MOTIONS AND CONFERENCES

Special Term is scheduled for the First and Third Wednesday of every month. When oral argument is granted on a motion, the court anticipates a staggered start time beginning at 9:30 a.m. Motion papers must be filed and paid for at the County Clerk's office before they will be assigned a return date. Compliance with CPLR § 2214-b is expected when serving moving, opposing, and reply papers.

Court appearances are virtual on the Microsoft Teams platform until further order of the State of New York. If parties or counsel do not have access to such technology to appear on such platform, contact the court to see what arrangements, if any, can be made.

Requests for Oral Argument are granted in the discretion of the court. If a hearing is granted or required, the parties shall be prepared to go forward on the scheduled return date.

Summary judgment papers: Unless your case is one of first impression in the State of New York, compliance with rule § 202.8-g is waived. Those who believe their case qualifies as one to comply with § 202.8-g shall consult with the judge before such submission.

For all emergency applications: The movant must first contact the court to ascertain a convenient date/time to have the application heard and the order presented for signature and what requirements apply for the court to be fully informed and in a position to review the submission. That may include an in-person appearance by counsel, parties, or other condition.

DISCOVERY

Note that 22 NYCRR § 202.11 requires that "Counsel for all parties shall consult prior to a preliminary or compliance conference. . ." Parties are required to discuss discovery issues before conferences to minimize the need for motion practice. Motions respecting discovery disputes must be supported by an affidavit or affirmation of a good faith attempt at resolution (*see* 22 NYCRR 202.7 [a]-[c]) before filing a disclosure motion, the party seeking disclosure shall call chambers and schedule a phone conference. Discovery motions filed before scheduling a phone conference will result in the motion papers being returned. Applications lacking the affidavit or affirmation of good faith effort will likely be rejected. On the issue of authorizations, the court typically follows *Castro v Admar Supply Co., Inc.*, 159 A.D.3d 1616 [4th Dept 2018].

Adherence to Discovery Schedule: The court will issue an appropriate Scheduling Order. Compliance with discovery obligations and the dates set forth in all Scheduling Orders is expected.

TRIALS

The court will issue a trial scheduling order at the first pre-trial conference post-note of issue. Deadline on expert disclosure for both parties is no later than thirty days before the first day of jury selection, unless otherwise stipulated by the parties or ordered by the Court. Any motions regarding the adequacy of expert disclosure are to be made within ten days of receipt of such disclosure. Generally, motions *in limine* are returnable at least one week before jury selection, but may be filed any date after the note of issue is filed. The marked pleadings, proposed charges, and verdict sheets shall be submitted no later than, and as a prerequisite to, opening statements.

SPECIAL REQUIREMENT ON SETTLEMENTS IN 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 all of the following: an affidavit from the insureds detailing their knowledge of insurance coverage; an affidavit from counsel who is 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 applicable insurance coverage.

MATRIMONIAL ACTIONS

PRELIMINARY INFORMATION SHEET: Please complete the preliminary matrimonial information sheet contained in Appendix A to these rules and return a PDF copy of the document to the court in advance of the preliminary conference.

PRELIMINARY CONFERENCE: Please e-mail the completed preliminary matrimonial information sheet to the court (through Catherine Carney, at ccarney@nycourts.gov) a few days in advance of that conference to permit the court the chance to read the document. Please also upload a retainer agreement, summons, affidavit of service, and Domestic Relations Law § 236 part B affidavit to NYSCEF in advance of the conference. A preliminary conference shall take place on the return date for all motions seeking pendente lite relief in a newly filed divorce action, unless otherwise directed by the court.

FINAL JUDGMENT ROLL: Please complete and submit to Gary Wilson, Esq., the judgment roll checklist in conjunction with the tender of a proposed judgment for judicial signature. Submission of a PDF copy of a completed judgment roll checklist will facilitate the review and execution of a proposed judgment. Contact the court for the up to date checklist.

DEFAULT: To the extent a default is taken in the absence of any prior appearance by the defaulting party, please serve a copy of the motion for default judgment upon that party through the same means by which service of the summons and complaint was effectuated and include an affidavit of service in your motion papers.

ORDERS OF PROTECTION: Orders of Protection should be personally presented to the Court Clerk. Applications for an order SHOULD include police and/or medical reports if available, as well as the Protective Registry Information Sheet. If an individual is in imminent dangers, please call 911.

TEMPORARY RESTRAINING ORDERS: TRO(s) will only be granted where assets are in jeopardy, or by consent.

CUSTODY TRIAL: At the pre-trial conference for a custody trial, the parties shall exchange and submit to the court Proposed Parenting Plans and witness lists. At the pre-trial conference for a financial trial, the parties shall exchange and submit to the court Statements of Proposed Disposition, updated Statements of Net Worth, witness lists, and tax returns for the previous three years. Proposed Parenting Plans and Statements of Proposed Disposition shall be submitted in hard copy and e-mailed to the law clerk listed above as a Microsoft Word compatible document. Absent extraordinary circumstances, all trial dates are final and will not be adjourned.

CHANGE OF ATTORNEY: Any attorney seeking to withdraw from a case **MUST FILE A MOTION** by order to show cause where the granting of such application would result in the litigant being self-represented. The court will not accept a stipulation where the litigant consents to proceeding *pro se*. Where the litigant is merely switching attorneys, a stipulation consenting to change attorneys is required and a motion need not be brought.

APPENDIX A



NEW YORK STATE SUPREME COURT

Expedited Matrimonial Program

50 Delaware Avenue, 10th Floor

Buffalo, New York 14202

(716) 845-9492

I. PARTIES

Plaintiff:	
Defendant:	
Index No.:	

II. ATTORNEYS

A. Plaintiff's Attorney(s):

Attorney(s):	
Preferred Phone #:	
Alternate Phone #:	
Email:	

B. Defendant's Attorney(s):

Attorney(s):	
Preferred Phone #:	
Alternate Phone #:	
Email:	

C. Attorney for the Child/Children

Attorney(s):	
Preferred Phone #:	
Alternate Phone #:	
Email:	

III. BACKGROUND INFORMATION OF PARTIES

	Plaintiff (Husband/Wife)	Defendant (Husband/Wife)
Age:		
Health:		
Occupation:		
Current Address:		
Email:		
Phone:		
Cell Phone:		
D/O Marriage:		
Years Married:		
D/O Commencement:		
D/O Separation:		

IV. ORDER OF PROTECTION

Party Imposed Against:	
Issuing Court:	
Date of Issuance #:	
Expiration Date:	
Type/Provisions:	

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V. RELATED PROCEEDINGS

Please note any related proceedings or proceedings pending in any court (e.g., Family Court or City Court). To the extent there is a related proceedings or proceedings, please note the index number of such proceedings, the judge or justice before whom such proceeding is pending, the attorneys involved in such proceeding, and the subject matter of such proceeding.

VI. CHILDREN

Name	Age (d/o/b)	School	Special Needs (Y/N)¹

Custody/Access: Are custodial and access issues resolved? (Y/N)

If custodial and/or access questions are not resolved, then please note the main issues with respect to those questions.

¹ If the child has special needs, then please briefly describe those needs.

VII. INCOME, ASSETS, AND LIABILITIES

A. Income:

Plaintiff/ Defendant	Employer/Source	Annual Income

B. Real Property:

i. Property

Address:	
City/Town:	
Titled Owner:	
FMV:	
Lien(s):	
Separate Property Claim (SPC) (P/D):	

ii. Property #2²:

Address:	
City/Town:	
Titled Owner:	
FMV:	
Lien(s):	
SPC (P/D):	

² Please note any additional real property holdings in an appendix to this information statement.

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C. Pension (s):

Plan/Administrator	Owner (P/D)	SPC (P/D)

D. Securities (401k/403b/Deferred Compensation/IRA/Investments):

Company/Type	Owner (P/D)	Current Balance	SPC (P/D)

E. Motor Vehicles

Year/Make/Model	FMV	Lien	Title (P/D)	Primary User	SPC (P/D)

F. Bank Accounts

Bank	Checking/Savings	Owner (P/D/JT)	Current Balance	SPC (P/D)

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G. Business Entities

Entity	Nature of Business	Owner (P/D)	SPC (P/D)

H. Debts (excluding mortgage and auto loans):

Debt Holder	Nature of Debt	Balance	Debtor (P/D/JT)	SPC (P/D)

I. Life Insurance

Company	Type	Face Amount	Cash Value (if any)	SPC (P/D)

J. Personal Property/Household Furnishings: Please list personal property and household furnishings with respect to which there is a significant issue or dispute:

K. Other Significant Issues/Assets/Liabilities Please briefly note other assets, liabilities, or issues of significance: