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Rule #1 **Be Prepared**
Rule #2 **Be Considerate**
Rule #3 **Be Cooperative**
Rule #4 **Repeat as Needed**

"Manners are the lubricating oil of an organization. It is a law of nature that two moving bodies in contact with each other create friction. This is as true for human beings as it is for inanimate objects. Manners- simple things like saying 'please' and 'thank you' and knowing a person's name or asking after her family enable two people to work together whether they like each other or not. Bright people, especially bright young people, often do not understand this. If analysis shows that someone's brilliant work fails again and again as soon as cooperation from others is required, it probably indicates a lack of courtesy – that is, a lack of manners."
— **Peter Drucker**

CONFERENCES

To keep Teams conferences running efficiently, please ensure counsel's contact information is current on NYSCEF. If counsel wishes to appear by TEAMS, their contact info should be current in the Case Detail tab on the NYSCEF website. Other than oral argument or settlement conferences, all Court appearances are virtual unless the court informs counsel otherwise. If parties or counsel do not have access to such technology to appear on such platform, contact the court to make alternate arrangements.

MOTIONS

Special Term is scheduled for the First and Third Wednesday of every month with counsel to appear "in person" for oral argument unless counsel's office is a significant distance from the courthouse and prior permission has been granted for an appearance via Teams videoconference. Compliance with CPLR § 2214-b is expected when serving moving, opposing, and reply papers, except for reply papers which are to be served upon the court by 5 p.m. on the Monday preceding the return date of the motion. Requests for Oral Argument are granted in the discretion of the court. Notice of

withdrawal of a motion is to be emailed to Catherine Carney AND Maria Scheffler. Within ten days after oral argument of the motion, counsel for the movant shall submit a proposed Order in Microsoft Word format via e-mail to opposing counsel and to Confidential Law Clerk Michael J. Pacifico, Esq.

Summary judgment papers: 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.

ELECTRONIC SUBMISSIONS.

The court finds it of tremendous value for each counsel to extend the courtesy of e-mail submissions with PDF copies of their affidavits, affirmations, and briefs [not the exhibits] related to their motion or other applications for relief, addressed to judge and law clerk, addresses above. All supporting exhibits will be reviewed using the NYSCEF platform. (*See rule III. H., above*). However, DO NOT send hard copy duplicates by mail or hand delivery unless otherwise advised. If the documents are too large for an email, then a CD-ROM or USB-flash drive will be accepted. The court will not access a third-party document management website.

It may come as a surprise that Erie County has a written set of joint protocols for use of New York State Courts E-Filing system with which each attorney should be familiar and which can be found at [Erie Protocol \(state.ny.us\)](https://iappscontent.courts.state.ny.us/NYSCEF/live/protocols/ErieProtocol.pdf) or (<https://iappscontent.courts.state.ny.us/NYSCEF/live/protocols/ErieProtocol.pdf>)

The court notes with regret that the most ignored sections include:

III. Filing of Papers

H. Exhibits: In the NYSCEF system, each exhibit must be uploaded as a separate .pdf file. After uploading a primary document, please choose the document type "Exhibit" and enter the appropriate number or letter and a brief description of the exhibit; each exhibit should bear a separate cover sheet clearly marked as "Exhibit A," "Exhibit B," etc. "Exhibit A" or "Exhibit B" is unacceptable as a brief description of the exhibit.

M. Discovery Materials and Correspondence: In the absence of the Court's permission or stipulation of the parties, no party shall file electronically any correspondence or discovery materials except in the form of excerpts, quotations, or selected exhibits from such materials as part of motion papers, pleadings or other filings with the Court.

Following these rules assists the court to be able to efficiently review counsel's submissions. It is counterproductive when the NYSCEF filings are cluttered with needlessly uploaded discovery

documents, and when motions are supported by a series of Exhibits A to LL which are all identified as “Exhibit” without reference to whether they are pleadings, records, or affidavits.

If a stipulation or other document is submitted for court signature, such as a “so ordered” stipulation, please email a .pdf version of the document to Michael Pacifico, Esq., and Maria Scheffler. Relying solely upon NYSCEF may result in a delay in processing the document.

Please note, no letters to the court are to be uploaded to NYSCEF regarding court cases without prior approval of the court – please email such letters to Ms Carney or Ms Scheffler and the court will address them.

SCHEDULING AND ADJOURNMENTS

The court is aware that all laws bend before Murphy’s Law - so requests for an adjournment are typically granted unless it creates a scheduling problem associated with a hearing date, jury selection, or trial. Please communicate with opposing counsel before contacting the court (Catherine Carney and Maria Scheffler) for an adjournment and offer proposed dates for the rescheduled conference or motion. If there is no consent to the adjournment,

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 paper being denied upon submission. 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 Obligations: Counsel and parties are expected to meet their discovery obligations under the Civil Practice Law & Rules (please note it is not titled the ‘Civil Practice Suggestions & Guidelines’), Civil Rules for Supreme & County Courts (22 NYCRR, Part 202), and this court’s local rules. This requires that counsel engage in good faith efforts to resolve discovery disputes, which means a verbal conversation about the issues, then a conference with the court. Familiarize yourself with the rules, then review this court’s rules #1-4, supra.

TRIALS

Once a Note of Issue and Certificate of Readiness for Trial (NOI) is filed, then the court will issue a trial scheduling order at the next pre-trial conference. The filing of the NOI is a condition precedent to the court scheduling a trial and issuing a Trial Scheduling Order. The court will not provide a trial date until after the Note of Issue is filed. If you believe you have a basis for a trial date without a NOI, please re-read this paragraph slowly and out loud.

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.

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 danger, 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.