# HON. FREDERICK J. MARSHALL
## Part 5- Third Floor
## 92 Franklin Street
## Buffalo, New York 14202
## PHONE: 845-9468 / FAX: 845-5164

| | | |
|---|---|---|
| Law Clerk: | Amy J. Ziegler, Esq. | 845-9469 |
| Secretary: | Kathi Walek | 845-9468 |
| Court Clerk: | Mary Pazik | 845-9422 |
| Court Reporter: | Barbara Cultrara | 845-2140 |

**MOTIONS**      1st and 3rd Tuesday of each month, 9:30 AM

**Part 5 - 92 Franklin Street**

### Civil:

Motions will be returnable on the first and third Tuesday of each month unless a different date is assigned by the Court. In an e-filed case, all moving papers shall be e-filed.. Responding papers, replies and memoranda of law shall also be e-filed. In an e-file case, <u>no paper copies shall be sent to the Court</u>. In a case that is not e-filed, moving papers shall be delivered to the Court at least one week prior to the return date. Answering papers shall be delivered to the Court at least three days prior to the return date. In a non e-filed case original papers must be supplied to the Court. No oral argument unless requested and shall be at the discretion of the Court. All requests for TRO's must be made on notice to opposing counsel if known. Requests for TRO's on cases assigned to another judge will be considered only upon approval of the IAS judge or his/her confidential law clerk. Motions must be adjourned to a specific date and not adjourned generally. Motions will not be adjourned more than three (3) times without the Judge's permission at least 48 hours prior to the scheduled returned date. Confirmation of all adjournments and notice of rescheduled dates must be made in writing to all parties and the Court. Summary judgment motions shall be made within 120 days of the filing of the Calendar note of issue or on such earlier date as set by the Court. All orders submitted for signature must only be submitted after notice to opposing counsel or pro se litigant. If oral argument is requested and permitted, Counsel and pro se litigants shall appear on time and check in with the Clerk of the court.

### Matrimonial:

Motions and Orders to Show Cause will be heard as scheduled. All moving papers, answering papers, memoranda and special term note of issue to be sent to Chambers at least two [2] days prior to return date. Original papers must be supplied to the Court. TROs will be granted, if not mutual, where assets are in jeopardy and there is an expeditious return date. Police and/or medical record/reports are required for an Order of protection. Requests for TROs on cases assigned to another judge will be considered only upon prior approval of the IAS judge or his/her Law Clerk. Oral argument on request. Motions must be adjourned to a specific date and will not be adjourned generally. Motions will not be adjourned more than three (3) times without Court permission granted at least 48 hours prior to the scheduled date. Confirmation of all adjournments and notice of rescheduled dates must be made in writing to all parties and the Court. Counsel shall appear on time and check in with the Clerk. All Orders, including Qualified

Domestic Relations Orders submitted for signature must be accompanied by notice to opposing counsel.

# HON. FREDERICK J. MARSHALL

## CONFERENCES:

### Civil:

Pretrial conferences will be scheduled upon the Court's receipt of an RJI and/or calendar note of issue. Preliminary conferences will also be scheduled on request. Counsel are to provide copies of all relevant pleadings, bills of particulars, narrative medical reports, independent medical examination reports and police reports in advance of the conference. All conferences will be held before the IAS judge or law clerk. 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 to all parties and the Court.

### Matrimonial:

Preliminary conferences to settle permitted, with divorce proven without prior filing of a calendar note of issue. Pleadings, 236-B affidavit and settlement proposal to be delivered to Court at least 72 hours prior to conference. Request for adjournments granted only on consent of all parties and the Court. No adjournments will be granted on the date of the scheduled conference absent exigent circumstances and consent of the Judge. One week prior to the date of the final report back before trial, counsel shall deliver memoranda of law, updated 236-B affidavits, current W-2s, rulings request, proof of acquisition of calendar number and statements of proposed disposition pursuant to 22NYCRR 202.16[h], to the Court.

## TRIALS and REFERENCES:

### Civil:

Adjournments only with approval of the Judge. List of witnesses, both lay and expert must be delivered to the Court thirty [30] days before jury selection, and exchanged among counsel. Motions *in limine* to be returnable on such date as set by the Court. Requests to charge and proposed verdict sheets required prior to the close of proof. Conference with IAS judge upon completion of jury selection. Charge conference will be held at/near close of proof.

### Matrimonial:

Adjournments only with the approval of the judge. References to law clerk to hear and report on divorces on stipulation, contested economics, post divorce arrears and post divorce modification. References to JHOs to hear and determine on any issue on consent. Bifurcation whenever practicable or requested. Proposed findings of fact and conclusions of law and trial briefs to be filed at least five [5] days prior to commencement of trial. Judgments should contain decretal paragraphs relating to custody, visitation, maintenance and support, where appropriate and if made pursuant to an agreement or stipulation should so reflect. Judgments must reflect whether child support is based on CSSA or if the parties have opted out.