

HON. MARK A. MONTOUR
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SPECIAL TERM MOTIONS

SPECIAL TERM MOTIONS ARE CALLED BY THE ORDER IN WHICH ATTORNEYS CHECK IN. KINDLY REPORT WITH THE COURT CLERK IMMEDIATELY UPON ARRIVAL.

CIVIL MOTIONS

All moving papers, answering papers, reply affidavits, and memoranda are to be received in Chambers by 3:00 p.m., the Wednesday before the return date, notwithstanding CPLR 2214(b), any papers submitted after 3:00 p.m. on Wednesday may result in an adjournment at the Court's discretion. Oral argument required unless written consent by all attorneys to submit on papers only is received or the Court directs otherwise.

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.

The Court encourages younger attorneys to participate in oral argument of motions when they have prepared motion papers or legal arguments contained in the motion papers. Thus, the Court will permit multiple attorneys to argue different points for each party especially when multiple attorneys researched and briefed various issues.

Summary judgment motions must be timely made pursuant to CPLR §3212(a).

A copy of the motion papers with Affidavits of Service must be supplied to the Court.

TROs handled on a case-by-case basis. TROs must be on notice to other attorney if known or where a government entity is involved. Orders to Show Cause/TROs on a case assigned to another judge will be signed only upon prior written approval of IAS judge or his/her law clerk.

Adjournments: Motions cannot be adjourned generally. If all attorneys consent to an adjournment, then the motion can be adjourned to a mutually agreed upon special term date. The attorney requesting an adjournment will send a confirming letter with the new return date to all attorneys and the Court. If one of the attorneys does not consent to the adjournment, the Court will decide whether to adjourn the motion on a case-by-case basis. Any request for adjournment must be made at least twenty-four (24) hours prior to return date. Further, no more than three adjournments will be granted. After three adjournments, the motion may be dismissed by the Court.

MATRIMONIAL MOTIONS

All moving papers, answering papers, reply affidavits, memoranda and paid Special Term Notes of Issue, are to be received in Chambers by 3:00 p.m. the Wednesday before the return date, notwithstanding CPLR 2214(b), any papers submitted after 3:00 p.m. on Wednesday may result in an adjournment, at the Court's discretion. Oral argument is required.

Any request for financial relief will not be considered unless a 236(b) Financial Affidavit is attached to the motion.

TROs rarely granted if not mutual; if granted, a quick return date is required and only where assets are in jeopardy or in extreme circumstances, supported by objective evidence (police or medical report). TROs on notice to other attorney, if known. Orders to Show Cause/TROs on a case assigned to another judge will be signed only upon prior approval of IAS judge or his/her law clerk.

Adjournments: Motions cannot be adjourned generally. If all attorneys consent to an adjournment, then the motion can be adjourned to a mutually agreed upon special term date. The attorney requesting an adjournment will send a confirming letter with the new return date to all attorneys and the Court. If one of the attorneys does not consent to the adjournment, the Court will decide whether to adjourn the motion on a case-by-case basis. Any request for adjournment must be made at least twenty-four (24) hours prior to return date. Further, no more than three

adjournments will be granted. After three adjournments, the motion may be dismissed by the Court.

LATE SUBMISSIONS

All motion papers, including cross-motions, answering affidavits, and reply affidavits must be submitted to the Court within the time periods prescribed herein and the CPLR, unless the Court directs otherwise. **Failure to comply with the filing deadline will result either an adjournment of the motion or refusal by the Court to consider the untimely submission.**

ORDERS

Must be submitted within thirty (30) days. There must be an indication that the order has been sent to all opposing counsel or *pro se* litigant and that no objection has been received. Orders will not be signed unless opposing counsel has had an opportunity to review for at least seven (7) days. However, if no objections are received after seven (7) days, the Order will be signed without further delay. **Facsimiles (orders, subpoenas, etc.) will not be signed as originals.**

CONFERENCES

CIVIL

Preliminary conferences will be scheduled within 45 days of the filing of the RJI and are mandatory. All conferences before the IAS judge or designated Court attorney. No pleadings or other papers need be submitted, but it will be appreciated if a synopsis of the case's facts and procedural/settlement posture is sent to the court by each party in advance of the preliminary conference.

Adjournments: Will be granted only with consent of all attorneys **and** assignment by court staff of a new date for the conference. No general adjournments will be granted and no adjournments will be granted if beyond the 45 day requirement.

IDV MATTERS

All attorneys and litigants must appear for the scheduled conference, unless otherwise directed by the Court. Adjournments of the preliminary conference will be granted only

under extreme circumstances. A failure to appear, in person, as required above may result in sanctions or other appropriate remedies.

TRIALS and PREFERENCES

CIVIL

Adjournments granted only by the Judge.

List of witnesses, proposed jury charge and verdict sheets required **one (1) week prior to jury selection**. The charge conference will be held following the completion of proof, unless otherwise directed by the Court.

Motions in limine returnable at least **one (1) week prior to jury selection**, at 9:30 a.m.

Any motions regarding the adequacy of expert disclosure are to be made within ten (10) days of receipt of such disclosure. Deadline on expert disclosure at least thirty (30) days prior to commencement of trial, unless otherwise ordered by the Court.

Special Requirement 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 insureds 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.

MATRIMONIAL

Judgments and findings of fact should be submitted on notice to opposing counsel within four (4) weeks of prove-up or decision. If no objections to final papers are received after seven (7) days, submitted papers and/or orders will be signed without further delay.

1. Counsel shall provide the Court with statements of proposed disposition, updated net worth statements with the last three (3) years tax returns, and child support worksheets when applicable.

2. Chambers shall be notified by all sides immediately if the action is resolved prior to the scheduled trial date.

3. The following, if applicable, shall be provided to the Court at least one week prior to the date of trial if not previously provided at a pre-trial conference:

a. Marked pleadings;

b. Updated affidavits of net-worth, statement of proposed dispositions and child support worksheets;

c. A witness list and any pre-trial memorandum;

d. Expert reports, if any

e. A list of all proposed exhibits;

f. A list of documents, pre-marked by counsel, which counsel may stipulate into evidence;

g. A written copy of any issues or facts to which parties can stipulate before trial, to be read into the record at the commencement of trial.

4. When presenting a witness with a document to be marked into evidence, a courtesy copy of that document must also be provided to the Court.

5. There will be no adjournment of the trial date without express Court permission.

6. Failure to proceed may result in a judgement of default or dismissal of the action.

Plaintiff

REQUEST FOR ADJOURNMENT

v.

Index No.

Defendant

REQUESTS MUST BE RECEIVED AT LEAST 2 BUSINESS DAYS PRIOR TO APPEARANCE.

Pursuant to the rules of Part 25, the undersigned request an adjournment of the appearance in the above-captioned matter currently scheduled for _____, 2018 at _____ AM/PM.

The reason for the adjournment request is _____

An extension is requested for a Temporary Order of Protection that will expire on or immediately after the currently scheduled appearance date.

I hereby affirm that I have the consent of all counsel to adjourn this matter. All counsel and the parties are available on the following future dates and times. Please provide three alternatives. The dates must be within 2 weeks of the original date.

- 1. _____ at _____ AM/PM
- 2. _____ at _____ AM/PM
- 3. _____ at _____ AM/PM

I hereby affirm that I do NOT have the consent of all counsel to adjourn this matter. The reason counsel for the Plaintiff/Defendant/infant issue objects is as follows: _____

OR [] See attached correspondence from objecting attorney.

THIS CASE IS NOT ADJOURNED UNTIL CONFIRMATION FROM THE COURT IS RECEIVED GRANTING THE ADJOURNMENT.

Dated: _____, 20__ REQUESTED BY: _____

PRINT NAME:

Attorney for Plaintiff: _____

Attorney for Defendant: _____

Phone/Fax _____

Phone/Fax _____

E-Mail _____

E-Mail _____

Attorney for Child(ren): _____

Phone/Fax _____

E-Mail _____

Approval by Court: [] Granted [] Denied

By: _____

On: _____

NEW DATE _____ at _____ AM/PM

NO ADDITIONAL NOTICES WILL BE SENT