

HON. MARY L. SLISZ

Part 25 - Fourth floor
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Secretary:	Patricia A. Benson pbenson@nycourts.gov	716-845-2680
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COURT APPEARANCES:

SCHEDULING - this Court, and support staff, makes every effort to accommodate counsel and clients to the best of its ability. It is expected that counsel will be respectful of that effort and of their colleagues and clients and **be on time**. If counsel is unavoidably detained, please contact the Court. It is also expected that counsel will be respectful when scheduling appearances, such that one could reasonably expect to be on time.

MOTIONS are heard on any business day, by appointment only. Before a motion or cross motion will be scheduled the papers must be filed and paid for at the County Clerk's office and delivered to the Court. Counsel must comply with CPLR 2214 time requirements when serving moving, opposing and reply papers.

1. Any motion seeking financial relief **MUST** attach the movant's DRL § 236 (B) affidavit.

NO PAPERS MAY BE SUBMITTED BY FAX OR EMAIL. THE COURT WILL NOT CONSIDER ANY SUCH SUBMISSION.

ORDERS TO SHOW CAUSE are to be used for exigent circumstances only.

1. **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, **call the police**.
2. **Temporary Restraining Orders** - will only be granted where assets are in jeopardy or by consent.

ADJOURNMENTS are only granted with approval of the judge and must be requested with the Adjournment Request Form, via email or fax. Telephone requests and emails without the Adjournment Request Form will not be considered or responded to. It is counsel's responsibility to arrange the adjournment request with opposing counsel's and AFC's office. Counsel must also communicate the dates to their client and confirm their availability. If you do not receive approval from the Court, counsel and clients must appear as scheduled. Only the Court may excuse appearances by parties.

MATRIMONIAL ACTIONS

PRELIMINARY CONFERENCES must be held within 45 days of the filing of an RJI as required by 22 NYCRR 202.12 (b). Attendance is mandatory for parties and counsel. The Preliminary Matrimonial Information Sheet, a retainer agreement, summons, affidavit of service, a certified DRL § 236 (B) affidavit together with the last 2 filed tax returns, W-2/1099 and Social Security earnings statement, must be provided to the Court and opposing counsel 10 days prior to the conference.

1. The Court will address temporary support and the automatic stays at the conference. If possible, counsel should refrain from bringing a motion/order to show cause for such relief prior to completion of the conference. Be prepared to discuss issues of *pendente lite* relief.

PRELIMINARY CONFERENCE ADJOURNMENTS - because of the limited time to hold a Preliminary Conference, adjournment requests will only be considered within 3 business days of the notice. Therefore, you must confirm your client's availability immediately upon receipt of the notice. The Adjournment Request Form must be used if the clients are not available.

REPORT BACK CONFERENCES - are scheduled after the Preliminary Conference, usually with a Court Attorney Referee in Expedited Matrimonials on the 5th floor. The parties and counsel shall provide all discovery documents as set forth in the Preliminary Conference Order.

SETTLEMENT CONFERENCES - are scheduled for 2 hours with clients. Counsel must bring the most recent proposed agreement in paper and electronic form. Be prepared to stay and work. It is expected that both parties will have reviewed the proposed agreement prior to the settlement conference.

FINAL JUDGMENT ROLL - once a fully executed agreement or written ratification has been received by the Court, counsel will have 30 days to submit the final judgment roll. The submission date is an in-person appearance **WITH CLIENTS**. In order to avoid the appearance you must provide all necessary documents listed on the Judgment Roll Checklist, from both sides, to chambers 48 hours prior to the return date. Partial submissions will not excuse the appearance. If all of the necessary documents are submitted, you will receive an email dispensing with your appearance. The judgment roll will then be substantively reviewed.

1. **NOTE:** If counsel does not receive an email, **both attorneys and clients must appear.**

QUANTUM MERUIT APPLICATIONS - the following documents **MUST** be submitted or the application will be denied. A copy of the agreement or the transcript - the Court does not retain copies in the file. A fully executed retainer agreement and Statement of Client's Rights and Responsibilities, a current DRL § 236 (B) affidavit and itemized billing statements, including 60-day invoices. Counsel should review 22 NYCRR 1400.2, 1400.3 1400.9 and 22 NYCRR 202.16.

[Q]DROs - counsel are strongly encouraged to submit all QDROs with the final judgment roll. Counsel should follow the guidelines in the QDRO review checklist. If it is more than one year since the judgment was signed, a motion must be made.

FROM: HON. PAULA L. FEROLETO, ADMINISTRATIVE JUDGE OF THE 8TH JUDICIAL DISTRICT

RE: NEW PROCEDURE FOR SUBMITTING [Q]DROS FOR SIGNATURE:

ANY CASE THAT IS LESS THAN ONE YEAR FROM ENTRY OF JUDGMENT:

(Q)DRO SHOULD BE SUBMITTED TO THE JUDGE WHO SIGNED THE JUDGMENT OF DIVORCE (IF NO LONGER ON THE BENCH OR IT ORIGINATES AS AN UNCONTESTED MATTER GO DIRECTLY TO THE CHIEF CLERK'S OFFICE) WITH THE FOLLOWING:

1. PROPOSED (Q)DRO
2. PROPERTY SETTLEMENT AGREEMENT
3. JUDGMENT OF DIVORCE
4. PROOF THAT (Q)DRO HAS BEEN APPROVED BY SPOUSE'S ATTORNEY OR SPOUSE

OR IF NO APPROVAL

PROOF THAT THE ATTORNEY IS NOT REPRESENTING THE PARTY ON THE ISSUE OF THE (Q)DRO AND THEN PROOF THAT THE SPOUSE HAS AGREED

OR IF SPOUSE CAN'T BE LOCATED

PROOF BY AFFIDAVIT OF DILIGENT EFFORT TO LOCATE THE SPOUSE & STATEMENT THAT TERMS REQUESTED IN (Q)DRO DO NOT EXPAND ON THE RIGHTS SET FORTH IN THE WRITTEN AGREEMENT.

OR IF SPOUSE OR ATTORNEY DO NOT AGREE

REQUEST SETTLEMENT CONFERENCE WITH THE COURT.

OR IF EXPAND ON RIGHTS

MODIFICATION TO AGREEMENT MUST BE SIGNED & NOTARIZED BY PARTIES.

ANY CASE THAT IS OLDER THAN ONE YEAR FROM ENTRY OF JUDGMENT:

(Q)DRO MUST BE SUBMITTED ON MOTION FILED IN THE ECCO AND THEN TAKEN TO THE CHIEF CLERK'S OFFICE FOR ASSIGNMENT TO AN IAS JUDGE WITH THE FOLLOWING DOCUMENTS:

- 1PROPOSED (Q)DRO
- 2PROPERTY SETTLEMENT AGREEMENT
- 3JUDGMENT OF DIVORCE
- 4PROOF THAT (Q)DRO HAS BEEN APPROVED BY SPOUSE'S ATTORNEY OR SPOUSE

OR IF NO APPROVAL

PROOF THAT THE ATTORNEY IS NOT REPRESENTING THE PARTY ON THE ISSUE OF THE (Q)DRO AND THEN PROOF THAT THE SPOUSE HAS AGREED

OR IF SPOUSE CAN'T BE LOCATED

AFFIDAVIT OF DILIGENT EFFORT TO LOCATE THE SPOUSE & STATEMENT THAT TERMS REQUESTED IN (Q)DRO DO NOT EXPAND ON THE RIGHTS SET FORTH IN THE WRITTEN AGREEMENT MUST BE ATTACHED TO THE MOTION.

OR IF SPOUSE OR ATTORNEY DO NOT AGREE

MOTION WILL BE SCHEDULED BY COURT

OR IF EXPAND ON RIGHTS

MODIFICATION TO AGREEMENT MUST BE SIGNED & NOTARIZED BY PARTIES.

NOTE: THERE IS NO FEE CHARGED FOR THIS MOTION.

A court errs in granting a QDRO more expansive than an underlying written separation agreement regardless of whether the parties or their attorneys approved the QDRO without objecting to the inconsistency, under such circumstances, the court has the authority to vacate or amend the QDRO as appropriate to reflect the provisions of the separation agreement. Santillo v. Santillo 155 A.D. 3d 1688 (Fourth Department 11/17/17)

REVISED: August 14, 2019

JUDGMENT ROLL SUBMISSION

- Once a fully executed settlement agreement or a stipulation on the record has been received by the Court counsel will have 30 days to submit the final judgment roll.
- The submission date is an in-person Report Back date WITH CLIENTS.
- In order to avoid an appearance counsel must provide all the submissions 2 business days prior to the scheduled court date. The papers should be submitted to chambers (if on the judge's calendar) or to Matrimonial Expedite (if scheduled with a Court Attorney Referee). Partial submissions will not excuse the appearance.
- If all the necessary documents are submitted you will receive an email from chambers or Matrimonial Expedite dispensing with your appearance. The judgment roll will then be substantively reviewed.
- If counsel does not receive an email, both attorneys and both clients MUST appear.
- Extensions of time will only be considered if an Adjournment Request Form is received 2 business days before the scheduled date.
- The submission must include all applicable documents on the Judgment Roll Checklist, which is located on the back of this form.

JUDGMENT ROLL CHECKLIST

Case Name _____ Index No. SF _____

Plaintiff's Attorney _____ Defendant's Attorney _____

- Proposed Judgment and Findings of Fact & Conclusions of Law, together with written proof that opposing counsel has reviewed and approved the papers.
- Withdrawal of appearance, if not in the agreement or transcript.
- Court exhibits.
- Copy of fully-executed agreement or Written Ratification and complete transcript.
- Copy of Summons & Affidavit of Service (that has been filed in the ECCO).
- Copy of Complaint (that has been filed in the ECCO).
- Affidavit in Lieu of Testimony (if on papers).
- Removal of Barriers Language (if on papers).
- Non-Military Affidavit (if on papers).
- DRL § 236 (B) Affidavit Plaintiff Defendant
- Retainer Agreement Plaintiff Defendant

If there are minor children, also submit the following:

- Parenting Agreement, if not included in the Property Settlement Agreement.
- Written proof that the Attorney for the Child has reviewed and approved the Parenting Agreement, the Judgment and the Findings of Fact & Conclusions of Law.
- UCS 111**
- STATE CASE REGISTRY FILING FORM, if Child Support is not paid through a Child Support Collection Unit.**

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

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