

(Eff. 01/2021)

Hon. Alexandra D. Murphy
Westchester County Courthouse
111 Dr. Martin Luther King Jr. Blvd, Courtroom 104
White Plains, New York 10601

Individual Part Rules

Staff

Debra A. Adler, Principal Law Clerk
(914) 824-5430; daadler@nycourts.gov

Anna Pia, Secretary
(914) 824-5429; apia@nycourts.gov

Brenda Jordan-Williams, Part Clerk
(914) 824-5349; bjordan@nycourts.gov

I. GENERAL RULES

A. Appearances: Counsel who appear before the Court must be familiar with the case and be fully authorized to enter into agreements on behalf of their clients. Counsel shall appear ready to discuss all matters, including settlement, at any scheduled appearance. Counsel and self-represented parties must be on time for all scheduled appearances.

B. Settlements and Discontinuances: If an action or motion is settled, discontinued, disposed or withdrawn in any manner, counsel must immediately inform the Court by letter or email and file the appropriate stipulation on the New York State Courts E-Filing system (hereinafter “NYSCEF”).

C. Conduct of Parties and Counsel: All parties and counsel must conduct themselves appropriately in all proceedings and in their communications with each other and the Court. Personal attacks upon parties or counsel will not be tolerated.

D. Communications: Any *ex-parte* communication is strictly prohibited. In addition, counsel must inform his/her client that under no circumstances shall any member of the Court’s staff engage in any conversation or exchange any communication with a represented party. Self-represented parties must not contact the Court’s Secretary or Law Clerk and must direct all communications through the Part Clerk.

II. MOTION PRACTICE RULES

A. E-Filing Rules and Protocol: All parties should familiarize themselves with the statewide E-Filing rules - Uniform Rule §§ 202.5-b and 202.5-bb [Rules & Legislation \(state.ny.us\)](#) and the Westchester County DCM Protocol. General questions about

e-filing may be directed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov. Specific questions about local procedures may be directed to the Civil Calendar Office at (914) 824-5300.

All cases that are subject to mandatory electronic filing must be filed electronically via NYSCEF. In an e-filed case, any submission to the Court, including a proposed order, proposed judgment or letter, must be filed electronically via NYSCEF. Counsel and self-represented parties are expected to keep their contact information updated in NYSCEF.

At this time, pursuant to Administrative Order (AO/121/20), working copies are not being requested.

Counsel should refer to E-Courts to determine if an appearance is required. Any questions about scheduling appearances on the motion, if any, or adjourning appearances must be directed to the Part Clerk.

B. Motion Calendars and Appearances: All motions or proceedings brought on by Notice of Motion or Notice of Petition must be made returnable before the Court on any Monday the Court is in session at 9:30 a.m. Personal appearances are not required on the return date. Papers not filed on NYSCEF by noon on the return date may not, in the Court's discretion, be considered.

Unless otherwise advised by the Court, all motions are by submission only. A request for oral argument may be made on the first page of the Notice of Motion, Order to Show Cause or answering papers. The Court will determine whether oral argument is appropriate, and counsel will be notified.

C. Adjournments: Any party seeking an adjournment must attempt to obtain consent from all other parties. A motion may be adjourned on consent for a maximum of 60 days. If all parties consent to an adjournment, a stipulation signed by all parties must be promptly uploaded to NYSCEF. Any request for an adjournment that exceeds 60 days (Rule 202.8[e][1] of the Uniform Rules for the Trial Courts) must be made by letter to the Court and uploaded to NYSCEF.

If consent was not obtained from all parties prior to the return date, a party seeking an adjournment must make such application in writing explaining the need for the adjournment and upload the application to NYSCEF. An application for an adjournment that is not properly supported will not be entertained, and the Part Clerk will mark the motion submitted.

Unless the Part Clerk, the Court's Secretary or the Court's Law Clerk has conveyed the Court's approval of an adjournment, no motion is considered to have been adjourned, including an adjournment on consent.

D. Orders to Show Cause and Requests for Temporary Relief: An Order to Show Cause submitted for signature must be uploaded to NYSCEF or presented to the office of the calendar clerk, after the payment of any required fee at the County Clerk's Office.

If an Order to Show Cause seeks temporary injunctive relief, counsel for the moving party or a self-represented moving party must demonstrate compliance with the notice requirements of Rule 202.7(f) of the Uniform Rules for the Trial Courts. A conference on the request for a Temporary Restraining Order, if required, will be conducted by the Court at a date and time set by the Court. Generally, an Order to Show Cause filed via NYSCEF is reviewed by the Court the business day after filing. If a submission requires more immediate attention, please contact the Law Clerk or Secretary after the Order to Show Cause is filed.

If the Court signs an Order to Show Cause, a copy of it will be uploaded to NYSCEF. If it is not an e-file case or the moving party has not opted into NYSCEF, the Court will email the signed Order to Show Cause to the moving party. A briefing schedule will be provided on the signed Order to Show Cause. No cross motion will be accepted absent prior permission of the Court or as specified in the Order to Show Cause. If appearances are required on the return date of the motion, the Court shall so indicate in the signed Order to Show Cause. Otherwise, no appearance is required, and no oral argument will be heard on the return date of the motion.

E. Communications Regarding Motions: All communications regarding motions, including requests for adjournments and questions concerning the status of motions, must be directed to the Part Clerk. If the Part Clerk is unavailable, the communication regarding a motion may be directed to the Law Clerk or the Court's Secretary.

F. Sur-Reply and Post-Submission Papers: Absent express permission from the Court, sur-reply papers and motion practice by correspondence are not permitted.

G. Length of Papers: Absent express permission obtained in advance from the Court, which will be granted only upon a showing of good cause, briefs or memoranda of law must be limited to 30 pages each, and affirmations and affidavits must be limited to 10 pages each. Papers submitted to the Court in violation of this rule may not be considered by the Court in deciding the motion, without prior notice to the submitting party.

III. TRIAL PRACTICE RULES

A. Trial Preparation: Prior to the commencement of a hearing or trial, counsel and any self-represented party must ascertain the availability of all witnesses and subpoenaed documents.

B. Interpreters and Special Services: Upon reporting to the Court for a hearing or trial,

counsel and any self-represented party must immediately advise the Part Clerk if the services of a foreign language interpreter are required for any party or witness or if any special services are required for any party or witness who is hearing-impaired or who has any other disability. Similarly, the Part Clerk must be immediately informed if there is a need for a television, monitor or any other courtroom aid.

C. Pleadings and Submissions Due Immediately Upon Appearance: Immediately upon being assigned to this Court for a hearing or trial, counsel for each party, including the Law Guardian, if any, and any self-represented party must report to the Part Clerk in room 104, or in his/her absence, the Law Clerk. Counsel or the self-represented party will be provided with a form to complete for the Court and must provide the Court with all marked pleadings and exhibits.

D. Marking of Exhibits: After filing the above-listed submissions with the Court, counsel and any self-represented party must meet with the assigned Court Reporter to pre-mark all exhibits for identification. Any exhibits whose admission is agreed to by the parties must be pre-marked for admission.

E. Conference: Immediately prior to the commencement of a hearing or trial, the Court will conduct a brief conference with all counsel to discuss preliminary matters. At this conference, counsel and any self-represented party must alert the Court to any anticipated motions *in limine* or evidentiary objections which will be made during the hearing and/or trial and must provide the Court with a copy of all prior decisions and orders which may be relevant to any applications *in limine* and/or objections.

F. Copies of Transcripts: If any part of a transcript of an examination before trial will be read as evidence-in-chief, the proponent of the transcript must provide a complete copy of it to the Court and all other counsel and/or self-represented parties, well in advance of the time that it shall be read, including citations to the page and line numbers for all portions to be read, so that all objections may be addressed by the Court prior to the proposed reading.

G. Copies of Exhibits: Upon the admission of an exhibit at a hearing or trial, the proponent of the exhibit must provide a complete copy to the Court.

H. Jury Charges: Counsel and any self-represented party must submit a complete list of requests to charge, including corresponding Pattern Jury Instruction (hereinafter "PJI") numbers, to the Court and must provide copies to all other parties. If a deviation from or an addition to the PJI is requested, counsel and any self-represented party must submit the full text of such request in writing and relevant supporting legal precedents to the Law Clerk.

I. Verdict Sheet: A verdict sheet must be jointly prepared. If an agreement cannot be reached, each party must submit a proposed verdict sheet to the Law Clerk via email on

notice to all other parties.

J. Post-Trial Submissions: In accordance with the schedule set by the Court at the conclusion of a trial, the parties must jointly submit a transcript of the proceeding and each party must prepare and submit post-trial memorandum.

In a matrimonial action, each party must also submit proposed Findings of Facts and Conclusions of Law and a proposed Judgment of Divorce. In the post-trial submissions following a trial of equitable distribution issues, each party must identify each item of property as either separate or marital and must state the value of each item of property. They must also identify all of the parties' outstanding debts as either separate or marital and must state the amount of each debt. All assertions as to the separate or marital status of each item of property and each outstanding debt and the value of each item of property and the amount of each debt, must be supported by citations to the trial transcript.

K. Trial Conclusion: At the conclusion of trial, counsel and any self-represented party are expected to e-file any exhibits admitted into evidence and any other document required to complete the record for purposes of any appeal. In addition, all materials used during the trial must be removed from the courtroom within 48 hours of the conclusion of trial. All materials not timely removed will be discarded.

L. COVID-19: In addition to the Individual Part Rules, this Court will follow the guidelines set forth by all orders from the Office of Court Administration with respect to COVID-19. Any person who appears in person must conform to all court operation guidelines, including, but not limited to, wearing a mask at all times and complying with social distancing.

IV. VIRTUAL PROCEEDINGS RULES

A. General: All in-person court rules apply equally to virtual court proceedings.

B. Recordings: No party or attorney may record any virtual court proceeding, including video, photographs and/or screenshots.

C. Third-Party Presence: No individual may be physically present in the same room as a party or witness, except for counsel.

D. Third-Party Communication: No party or witness may communicate with anyone in any manner while under oath during a virtual court proceeding.

E. Attorney-Client Communication: Prior to engaging in any private communication with his/her client during a virtual court proceeding, counsel must first announce an intention to do so.

F. Visibility: A witness and counsel must be visible on screen, while under oath during a virtual court proceeding, whether together in the same room or in separate physical locations.

G. Electronic Devices: All electronic devices that are not being used to communicate with the Court must be placed on mute.

H. Messaging: Counsel, parties and witnesses must be aware that all Teams messaging is public and persistent in that it is never erased.