

HON. ANTHONY R. MOLÉ, A.J.S.C.

INDIVIDUAL PART RULES FOR THE SUPREME COURT

PUTNAM COUNTY SUPREME COURT

20 COUNTY CENTER

CARMEL, NY 10512

COURTROOM 306

SUPREME COURT TELEPHONE: (845) 208-7800

CHAMBERS TELEPHONE: (845) 208-7850

SECRETARY: TERESA MURPHY

PRINCIPAL COURT ATTORNEY: MO ZAHEERUDIN, ESQ.

The following Part Rules are effective as of January 10, 2024 in all actions or proceedings assigned to this Court:

I. GENERAL RULES

- A. All attorneys must be familiar with the **Uniform Rules for The Supreme Court** (Part 202 [22 NYCRR 202.1 *et seq.*]), which are applicable to all actions and proceedings in the Supreme Court.
- B. **Compliance**: Attorneys and parties are so advised that these Part Rules must be scrupulously adhered to and may be strictly enforced.
- C. **Telephone Communication**: Telephone calls to chambers are prohibited absent an emergency or other dire circumstance.
- D. **Correspondence**: **All correspondence must be filed on** the New York State Court Electronic Filing (NYSCEF) or with the Putnam County Clerk's Office for non e-file cases.
 - i. Correspondence addressed to the Court must be copied to all counsel (or a pro se party); and shall prominently indicate the index number and next appearance date.
 - ii. **Litigation by Letter**: The Court does not permit litigation by letter whatsoever. The Court shall not entertain litigation by letter or correspondence in any fashion.
 - iii. Correspondence that does not conform with the above rules will not be considered and may be appropriately rejected or disregarded.
- E. **Engagements / Unavailability**: Attorneys must be familiar with the **Uniform Rules for the Engagement of Counsel** (22 NYCRR 125.1) concerning all scheduling matters. Adjournment requests due to an actual engagement must be filed with an accompanying affirmation of actual engagement in conformance with 22 NYCRR 125.1 and shall be filed as soon as the conflict is known.

- F. Appearances:** Appearances will generally be held Friday mornings with calendar calls starting at 10:00 a.m. All appearances shall be in person.
- i.** Attorneys must be prepared, organized, punctual, professionally attired, and civil to one another and the court.
 - ii.** All attorneys who appear before this Court must be familiar with the case and authorized to enter into agreements as to both substantive and procedural matters on behalf of their clients. Attorneys covering or appearing *of counsel* to the attorneys of record shall be held to the same requirements.
 - iii.** All counsel and self-represented parties must promptly be on time for the scheduled court appearances.
 - iv.** Counsel must make a diligent, good-faith effort to narrow or resolve issues prior to the scheduled appearance.
 - v.** Failure of a party to appear, including a self-represented litigant, may result in the entry of default, unless otherwise excused for good cause.
- G. Adjournments:** Granting adjournments are within the discretion of this Court. All adjournment requests must be made at least **three (3) business days** prior to the scheduled appearance, absent an emergency.
- i. Adjournments by Stipulation:** A party seeking an authorized adjournment must contact all other parties in an effort to obtain consent and demonstrate such efforts to the Court. All requests for adjournments shall be sent in writing and must be filed on NYSCEF. Any stipulations or letters concerning an adjournment shall be **electronically filed** forthwith on NYSCEF at least 72 hours prior to the court date.
 - ii.** Any attorney or self-represented party requesting an adjournment must first obtain **prior consent of all counsel or a self-represented party before contacting the Court for approval**; or promptly advise that such consent was requested and denied.
 - iii.** All adjournments must be affirmatively granted by the Court irrespective of mutual consent. All parties and counsel must appear as scheduled if the Court does not approve the adjournment request.
 - iv.** The Court may impose a future appearance date if the parties or attorneys are unable to mutually select a convenient date and time.
- H. Proposed Orders:** All proposed temporary, interim, or final orders shall be submitted with Notice of Settlement in accordance with 22 NYCRR 202.46, **unless** explicitly waived in writing. Any proposed counterorder shall be timely filed prior to the date of the proposed order that is noticed for settlement. Proposed orders that do not accurately reflect the record may be modified, *sua sponte*, directed to be resubmitted by the filer, or remain unsigned.
- I. Ex Parte Communications:** *Ex parte* communications are strictly prohibited except with respect to scheduling matters or where otherwise permitted by law.

- J. Communications with Represented Parties:** Counsel are directed to inform their clients that under no circumstances shall any represented party engage in any conversation or exchange any communication with Court staff (*see* CPLR 321 [a]).
- K. Self-Represented Parties:** The Court is not authorized to provide legal advice in any respect. No greater rights are afforded to a *pro se* litigant. A *pro se* party is always free to consult with and retain counsel for legal assistance.
- L. Settlements and Discontinuances:** If an action is settled, discontinued, or otherwise disposed in any manner by the parties, counsel and self-represented parties shall immediately inform the Court by letter and by filing a Stipulation of Discontinuance with the County Clerk (if opt-out of NYSCEF), or through NYSCEF in an e-filed case. The Court will not mark any matter settled unless it has received a copy of a Stipulation of Discontinuance.
- i.** The Court encourages, and is available to facilitate, the settlement of all matters. Accordingly, in any case assigned to this Part, where all parties consent, they may contact chambers to request a conference for the purpose of resolving motions pending before this Court, or settling the entire matter.
 - ii.** If the parties agree to attend a Court conference, this shall not serve to delay the submission date of any motion, nor as a stay of the action or proceedings.
- M. E-Filing Rules and Protocols:** Counsel for all parties shall familiarize themselves with the statewide E-Filing Rules (*see* 22 NYCRR 202.5-b and 202.5-bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile [Electronic filing in Supreme Court; mandatory program]). General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or at efile@nycourts.gov.

II. MOTION PRACTICE

NOTICE: In the event the parties settle a motion or part of a motion prior to the return date or before a decision has been rendered, the movant shall immediately inform the Court in writing via NYSCEF.

- A. Motions:** All motions and proposed orders to show cause must be in conformance with the requisite statutory requirements, including but not limited to CPLR 2214 and 22 NYCRR 205.11.
- i. Return Date:** Counsel shall strive to make all motions returnable on a Friday, excluding holidays; and shall comply with the timing provisions set forth in CPLR 2214.
 - ii. Adjournment of Motions:** No more than three stipulated adjournments for an aggregate period of no more than 60 days are allowed, except with the Court's permission (*see* 22 NYCRR 202.8 [e] [1]). No motion shall be considered adjourned unless expressly approved by the Court.

- iii. No working copies of motions papers are required, unless expressly directed by the court. If requested, working copies must include external exhibit tabs, with plaintiff using numbered exhibit tabs and defendants and third parties using lettered exhibit tabs. In no event shall the same number or letter be used in the same motion sequence.
- iv. The movant must file proof of service of the motion papers upon the opposing party (or his or her counsel).
- v. Motions are generally on submission unless the Court directs otherwise (*see* 22 NYCRR 202.8 [“Service and filing of motion papers”]).
- vi. Should it determine that oral argument is necessary on an issue, the Court may accordingly fix an appropriate date and time notifying all counsel and/or parties (*see generally* 22 NYCRR 202.8 [d]).
- vii. Legal arguments must be supported by the law — i.e., case or statutory.
- viii. Extensions of briefing schedules or submitting late papers should be made on prior consent. Absent good cause, the Court may deny filing extensions or acceptance of late papers.
- ix. The Court does not accept surreply papers or correspondence filed after a motion is fully submitted for decisional purposes (*see* CPLR 2214 [c]).
- x. Summary Judgment Motions must be made within sixty (60) days of filing the Note of Issue unless the Court orders otherwise.
- xi. **Ex Parte Motions**: The Court does not accept *ex parte* motions, unless they are motions for service by publication or such other motions permissible by the law. All other motions must be made on notice.

B. Orders to Show Cause: Orders to Show Cause submitted for signature shall be presented after payment of filing fees. If the Order to Show Cause is signed by the Court, a copy of it shall be sent to counsel for the moving party or self-represented party. If appearances are required on the return date of the motion, the Court will so indicate in the Order to Show Cause. Otherwise, no appearances shall be required, and no oral argument shall be heard on the return date of the order to show cause.

- i. **Temporary Injunctive Relief**: Absent circumstances of significant prejudice, which must be detailed in writing, any proposed order to show cause seeking a stay, a temporary restraining order, or temporary injunctive relief, must comply with 22 NYCRR 202.7 (f) by giving sufficient notice to the opposing party, who shall be advised at least twenty-four (24) hours in advance that an application will be presented to the court for temporary injunctive relief.
- ii. Counsel for the moving party or any self-represented party shall demonstrate compliance with 22 NYCRR 202.7 (f), regarding notice to the affected party (or parties).

C. Form of Motion Papers: All motion papers submitted to the Court, including Orders to Show Cause, must be legible, typewritten, and securely bound if a working copy is requested. Motion papers must indicate the sequence number and the index number of the case.

- i. Motion exhibits shall not be replicated in the same motion sequence or related sequences once submitted, including simultaneous submission of summary

judgment motions. The parties shall confer to assure that this rule is followed. Exhibits referenced in depositions that are to be considered on a motion shall be labeled as all other exhibits.

- ii. All affirmations, affidavits, and memoranda of law must contain numbered pages. Citations to legal authority must be to the official citation, making it readily verifiable. Legal argument shall be confined to the memorandum of law. Citations to legal authority shall not be included in affidavits.
- iii. Absent express permission in advance from the Court, each affirmation and affidavit shall not exceed fifteen (15) pages and a memorandum of law shall not exceed twenty (20) pages. Each affirmation, affidavit, and memorandum of law in reply shall be limited to ten (10) pages. Papers exceeding these limitations may not be considered or may be rejected by the Court.

III. DISCOVERY

- A. **Preliminary Conference**: The Court shall schedule a Preliminary Conference within 45 days after a Request for Judicial Intervention (RJI) has been filed. Counsel are referred to Uniform Rule 22 NYCRR 202.12 regarding preliminary conferences in general. The attorneys shall consult with one another in accordance with 22 NYCRR 202.1.
- B. **Compliance Conference**: The date for a compliance conference shall be set by the court in the preliminary conference order. Absent an extenuating circumstance, a compliance conference will typically be scheduled about 3 to 4 months after the preliminary conference order is entered by the court.
- C. **Compliance with Discovery Orders**: Counsel are advised that strict compliance with discovery orders is required. Attorneys shall strive to adhere to the deadlines set forth in preliminary or compliance conference orders. Unexcused or unjustified failures to comply with the requirements and deadlines fixed by the court in discovery orders may result in the imposition of costs, sanctions, penalties, or other appropriate remedies upon the offending party pursuant to Section 130.2.1 of the Rules of the Chief Administrator, 22 NYCRR § 202.27, or any other applicable rule or statute, including but not limited to CPLR 3126. Any lengthy extensions of deadlines set forth in preliminary or compliance conference orders must be requested from the Court in writing and shall only be granted upon a showing of good cause.
- D. **Discovery Issues**: In general, the court strongly encourages the parties to make earnest efforts in resolving disputes before seeking further judicial intervention. Pursuant to 22 NYCRR 202.7, if counsel believes discovery is not being conducted accordingly, they must pursue meaningful dialogue with opposing counsel and engage in good faith efforts to resolve discovery matters.
- E. **Discovery Motions**: Discovery motions may not be made unless authorized or directed by the Court after a court conference. Pursuant to the Uniform Rules, the parties must first consult with one another in a good faith effort to resolve all discovery disputes. If

a dispute cannot be resolved after such good faith effort, the parties must submit a letter requesting a conference and advising the Court of the nature of the dispute and the efforts made to resolve the issue(s).

IV. MATRIMONIAL ACTIONS

- A. Uniform Rules:** All attorneys must be familiar with the uniform court rules for matrimonial actions and proceedings that are set forth in 22 NYCRR 202.16, 202.16-a, and 202.16-b.
- B. Conferences:** Attorneys and parties must be present at all conferences. Parties must comply with the Matrimonial Part Rules concerning preliminary conference, compliance conferences, and settlement conferences.
- C. Preliminary Conference:** Pursuant to 22 NYCRR 202.16 (f), each party must file on NYSCEF the following at least ten (10) days prior to the scheduled preliminary conference: (a) the retainer agreement; (b) statement of net worth; and (c) recent paystubs, W-2 statements, income tax returns, and statements of accounts. Parties must submit the proposed preliminary conference order at least three (3) days prior to the date of the scheduled preliminary conference via NYSCEF.
- i.** Any application regarding child support must be accompanied by a completed Child Support Worksheet.
- D. Motions:** On the return date of any *pendente lite* motion, the Court will conduct either a preliminary conference or conference on the motion, as appropriate. In the event a Bench Decision is issued on the motion, a copy of the transcript will be ordered by the Court, the cost of which will be shared by the parties unless otherwise ordered. Any *pendente lite* motion which does not include a statement of net worth and calculations showing the manner in which the amount of any *pendente lite* support sought has been calculated will be denied.
- E. Pretrial / Prehearing:** Parties must file on NYSCEF the following items no later than seven (7) days prior to the commencement of trial or the hearing, with the exception of *motions in limine* and objections by NYSCEF:
- i.** Marked Pleadings and Previous Judicial Decisions (if applicable).
 - ii.** Updated Statements of Net Worth, Child Support Worksheet (if applicable) and Spousal Guidelines Worksheet (if applicable).
 - iii. Exhibits and Objections:** Counsel for the parties must confer and make a good faith effort to stipulate as to exhibits, including physical exhibits, that will be offered into evidence without objection and the redaction of such exhibits as necessary. Each party is limited to fifteen (15) exhibits, unless otherwise approved by the Court, and must upload each exhibit separately.
 - iv. Witness List:** Counsel for the parties must confer regarding the witnesses to be called and the order that they will be called.

- v. Joint Stipulation as to Facts and Issues: Counsel for the parties must confer and make a good faith effort to stipulate as to undisputed material facts (e.g., the date of marriage, the names and birth dates of children, the location of any residential real estate and the approximate date of acquisition, approximate cost and the approximate balance on any mortgage), issues/claims that have resolved and/or withdrawn, as well as any remaining issues/claims that must be tried on the merits.
- vi. Joint Statement of Proposed Disposition: To the extent that the parties disagree on any item, the plaintiff's position should be set out first, followed by the defendant's position. The Court will not accept separate statements of proposed disposition without prior written approval.
- vii. Motions in *Limine*: All motions *in limine* shall be filed no later than seven (7) days prior to the assigned trial date and shall be emailed forthwith to 9JD-judgemole@nycourts.gov.¹

F. Posttrial Submissions: In accordance with the schedule set by the Court, the parties must file the following on NYSCEF: (a) a combined transcript of the proceeding; (b) closing memoranda; (c) and any other document required to complete the record for purposes of an appeal.

V. TRIAL PRACTICE RULES

- A. Trial Preparation: Prior to the commencement of a trial or hearing, counsel shall ascertain the availability of all witnesses and subpoenaed documents and notify the Court of the need for interpreters and special services, including technological equipment such as televisions or monitors.
- B. Subpoenas: Counsel are referred to CPLR 2306 and 2307 for guidance as to subpoenas directed to governmental or municipal entities, departments, and bureaus. The Court's issuance of a subpoena to such entities does not constitute a ruling as to the admissibility of the subpoenaed records. Counsel are also reminded that they are designated agents for service of subpoenas on their clients under CPLR 2303-a. All subpoenas seeking the production of medical (or other) records subject to the HIPAA Rules shall attach a duly executed authorization permitting the release of such records.
- C. Pleadings and Submissions: At least ten (10) days before the scheduled trial, counsel for each party shall submit the following to the Court:
 - i. A statement of the estimated length of trial;
 - ii. Marked pleadings and bill of particulars;
 - iii. List of all witnesses who may be called at trial, including any potential rebuttal witnesses;
 - iv. List of all exhibits the party expects to use at trial, indicating whether such exhibits are stipulated for admission into evidence or are marked only for identification;

¹ This email shall not be used in any way for filing, communicating, or contacting the court.

- v. A written stipulation governing all facts that are not in dispute;
- vi. All expert witness reports and disclosures exchanged between the parties; and
- vii. All reports, transcripts of examinations before trial, and written statements that may be used during trial.

D. Marking of Exhibits: Any exhibits where admission is agreed upon by the parties shall be pre-marked for admission.

E. Pretrial Conference: Before commencement of the trial, the Court shall conduct a conference with all counsel and self-represented parties to discuss preliminary matters inclusive of the following:

- i. any anticipated motion(s) *in limine* or evidentiary or legal issues they believe will arise during the trial;
- ii. any anticipated requests for a jury instruction relating to missing witnesses or evidence; and
- iii. a proposed verdict sheet and requests to charge.

F. Motions or Letters: Any motions, affirmations, memoranda of law, or letters in connection with an ensuing trial before this Court shall be electronically filed forthwith on NYSCEF.

G. Proposed Jury Charges: In all jury trials, a complete list of requests to charge shall be submitted to the court immediately preceding the commencement of trial, with copies to be provided to all counsel and self-represented parties. If a requested charge is drawn from the current Pattern Jury Instructions (PJI), only the PJI number and charge heading need be submitted. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedents. All proposed jury charges shall be electronically filed on NYSCEF; and also, shall be prepared in Microsoft Word and e-mailed to 9JD-judgemole@nycourts.gov.

H. Verdict Sheet: At the commencement of the trial, counsel shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all parties. The verdict sheet shall be in a final, typewritten form. The verdict sheet shall provide signature lines for each juror, stating yes or no, as to each interrogatory to be considered. All proposed verdict sheets shall be electronically filed on NYSCEF; and also, shall be prepared in Microsoft Word and e-mailed to 9JD-judgemole@nycourts.gov.

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THESE RULES ARE SUBJECT TO CHANGE WITHOUT PRIOR NOTICE.

THE COURT APPRECIATES YOUR COOPERATION.