

Hon. Damaris E. Torrent, A.J.S.C.

Supreme Court, Westchester County
111 Dr. Martin Luther King Jr. Blvd.
White Plains, NY 10601
IAS Part 28 – Courtroom 1201
Chambers Phone: (914) 824-5389

INDIVIDUAL PART RULES

Court Staff

Tayisha DuBose-Lopez, Secretary
(914) 824-5389; tdlopez@nycourts.gov

Ms. C. Guzman, Senior Court Clerk
(914) 824-5227; cguzman@nycourts.gov

Margaret A. Kennedy, Principal Court Attorney
(914) 824-5399; makenned@nycourts.gov

Brian G. Shaffer, Principal Law Clerk
(914) 824-5331; bshaffer@nycourts.gov

Rules Particular to Family Court Matters

PLEASE NOTE:

In the event that any of the Rules Particular to Family Court Matters is inconsistent with any of the Generally Applicable Rules below, the language in the Rules Particular to Family Court Matters governs all matters pending in Family Court which are reassigned to this Part.

The Court encourages and is available to facilitate the settlement of all matters. Accordingly, all parties are encouraged to negotiate, compromise, and submit stipulations to the Court resolving any or all issues in a case assigned to this Part. However, at this time, all matters pending in Family Court which are reassigned to this Part have been deemed Trial Ready, and efforts of the Court and its staff to resolve issues and/or settle matters are a courtesy. The Court may cease such efforts and schedule a hearing/trial at any time.

I. FACT-FINDING HEARINGS/TRIALS

A. Trial Subpoenas:

When subpoenas are directed to documents in the possession, custody or control of libraries, hospitals, and municipal corporations and their departments and bureaus, the subpoena notice must be “So Ordered” by the Court (“judicial subpoena”) pursuant to CPLR 2306 and 2307 and then be served on the intended recipient at least three (3) days before the time fixed for the production of the documents, unless such notice is waived by the Court due to emergency circumstances as set forth in CPLR 2307. The judicial subpoena must be served on all counsel and parties to the proceeding promptly after service on the witness, as required by CPLR 2303(a).

Any party wishing to obtain a judicial trial subpoena must move the Court on one (1) days' notice to the person having custody of the record or document pursuant to CPLR 2302 (b) and must do so at least seven (7) days prior to the scheduled fact-finding hearing, except in exceptional circumstances. Fact-finding hearings will not be adjourned for failure to comply with this provision, except for good cause. Motions for judicial subpoenas should be delivered to the Office of the Family Court Clerk at the Courthouse. The Court's issuance of a judicial subpoena does not constitute a ruling as to the admissibility of the subpoenaed materials.

B. Trial Notebook:

No less than three (3) weeks before the first scheduled trial date on a matter, each party or counsel must file with the Court a "Trial Notebook" and provide a copy of that notebook to each attorney or unrepresented party to the matter.

The Trial Notebook shall consist of:

1. Witness List

The list shall identify the name, address and telephone number of the proposed witness and a brief statement, or offer of proof, as to why the witness is being called and to what the party expects the witness to testify. If a witness is not identified in the witness list provided to opposing counsel or party as part of the trial notebook, the witness may not be permitted to testify in a party's case-in-chief unless an adequate explanation is provided for the failure to identify such witness prior to trial. Fact witnesses and expert witnesses should be advised of the scheduled dates at the time the dates are set.

Absent unanticipated, exigent circumstances, last minute claims of unavailability will not be accommodated where the trial dates have been previously set. All witnesses should be on one-hour phone call notice so that their waiting time in court is minimized. Professional witnesses, such as doctors, nurses and social workers, and witnesses who are public employees, such as teachers, counselors, and police officers, will be permitted to testify out of order to accommodate their employment schedules. School teachers should be scheduled after 3:00 p.m. so that it is not necessary for their employers to provide substitutes. Rebuttal witnesses need not be listed.

2. Exhibit List with copies of Pre-Marked proposed Exhibits

The list shall enumerate all exhibits to be offered into evidence at trial by each party with a brief description of each exhibit and the "trial notebook" shall contain a copy of each proposed exhibit that the party/counsel intends to offer into evidence in support of their case-in-chief at trial. The parties/counsel shall make a good faith effort to resolve any disputes regarding admissibility of evidence and stipulate to the admissibility of as many exhibits as possible. Additionally, the counsel (or self-represented parties) will be required to appear for a pre-trial conference with the Law Clerk for the purpose of pre-marking exhibits, discussing stipulations that have been agreed

upon between counsel/parties, and resolving as many remaining disputed evidentiary issues as possible.

All exhibits expected to be used at a Fact-Finding Hearing, whether the exhibit will be marked for identification or moved into evidence, must be pre-marked, and originals and sufficient copies for all parties shall be brought to the Fact-Finding Hearing. Petitioner's exhibits shall be numbered. Respondent's exhibits shall be lettered. Attorney for the Child exhibits will be designated AFC 1, 2, 3, etc.

C. Evidentiary Matters:

Motions in Limine shall be filed at least (2) two weeks prior to trial. Failure to timely file said motion may result in the preclusion of any such motions thereafter. Counsel (or self-represented parties) shall not argue proof on the record and in front of the witnesses.

II. ORDERS

A. Temporary/Interim Orders:

The Court prefers that all Orders be computer generated. However, if a temporary or interim handwritten Short Form Order is necessary, the Short Form Order must be written in BLACK ink or it will not be accepted by the Court. All handwritten Orders must be neat and legible. If the Order is not legible, it may be returned to the writer and this may prolong the resolution of the case. If the Order is returned, the writer may be directed to submit a printed, computer generated Order by a date and time selected by the Court. Failure to comply with the directive of the Court to submit an Order may result in dismissal of the case or reassignment of the 18B attorney or attorney for the child.

B. Final Orders:

At the conclusion of the matter, Orders (one original and one copy) together with a self-addressed, stamped envelope, must be submitted within two (2) weeks from the date the matter is resolved, unless otherwise directed by the Court. The Order shall be single sided and doubled spaced, either with Notice of Settlement attached to the proposed order, or as a proposed consent order, with signatures from all parties whereby Notice of Settlement is waived. If there is opposition to a proposed Order, the objecting attorney or party shall negotiate in good faith to resolve the disputed language/provision. If the objection cannot be resolved, then the objecting attorney or party shall submit a proposed Counter Order to the Court prior to the Notice of Settlement date set forth on the initial proposed Final Order, unless otherwise directed by the Court.

All counter-orders and counter-judgments must be submitted with a cover letter and a "redlined" copy highlighting the language which differs from that of the originally submitted order. If no proposed Counter Order is received, the Court may sign the proposed Order or modify said Order sua sponte. Each attorney submitting a proposed order is expected to take copious notes of the

proceedings or to obtain a transcript of the proceedings so that the order accurately reflects the settlement placed on the record in open Court. If the proposed order is not reflective of the actual settlement reached, it will be returned to the attorney who drafted it and the attorney will be directed to correct the order and resubmit it within seven (7) days of it being returned. All proposed orders or other documents, including transcripts that are to be submitted for the Judge's signature must include a "So-Ordered" signature line: Hon. Damaris E. Torrent, A.J.S.C.

Generally Applicable Rules

The following Rules are effective as of January 28, 2022 in all matters assigned to this Part:

WESTCHESTER SUPREME COURT CIVIL CASE MANAGEMENT RULES

All parties and counsel in matters pending in Supreme Court are expected to be familiar with the Westchester Supreme Court Civil Case Management Rules, which are available at:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/civilCaseMgmt/rules/WestchesterCivilRules.pdf>

POLICY IN FAVOR OF NEGOTIATION AND SETTLEMENT:

The Court encourages and is available to facilitate the settlement of all matters. Accordingly, all parties are encouraged to negotiate, compromise, and submit stipulations to the Court resolving any or all issues in a case assigned to this Part.

Where all parties consent, counsel (or self-represented parties) may contact Chambers to request a conference for the purpose of resolving all or part of a pending motion or, in a matter assigned to this Part for trial, settling the matter in its entirety. In addition, in any case assigned to this Part, the Court may sua sponte direct the parties to attend such a conference with either the Court Attorney or the Law Clerk, or before the Court. Please be aware that the parties' attendance at such a conference shall serve neither to delay the submission date of any motion, nor as a stay of the proceedings.

I. GENERAL RULES

A. Correspondence:

The Court does not accept papers of any kind by fax transmission. Copies of letters, stipulations, affidavits/affirmations, or other correspondence pursuant to the Rules set forth below shall be e-mailed to the Secretary, the Court Clerk, the Court Attorney, and the Law Clerk with a copy to all counsel and/or self-represented parties. In addition, the correspondence must be uploaded to NYSCEF or, in a non-e-filed case, filed with the County Clerk (where appropriate) and mailed to the Court – Hon. Damaris E. Torrent, A.J.S.C., attn: Secretary / Court Clerk.

B. Conferences:

In accordance with the Westchester Supreme Court Civil Case Management Rules, cases with EVEN Index Numbers are assigned to the Court Attorney for case management, and cases with ODD Index Numbers are assigned to the Law Clerk for case management.

Unless otherwise directed by the Court in a particular case, cases with EVEN Index Numbers will be scheduled for Preliminary and Compliance conferences on Tuesdays. Cases with ODD Index Numbers will be scheduled for Preliminary and Compliance Conferences on Wednesdays.

Settlement Conferences will be scheduled approximately 180 days after the filing of a Note of Issue. Judge Torrent will conduct Settlement Conferences on Thursdays.

Initial scheduling in response to a Request for Preliminary Conference will be coordinated by the Preliminary Conference Part:

Preliminary Conference Part

Contact: Elizabeth Curtin, Preliminary Conference Part Clerk

8th Floor, Courthouse Tower

e-mail: PreliminaryConferenceWestchester@nycourts.gov

Phone: (914) 824-5344

All Preliminary Conferences, Compliance Conferences, and Settlement Conferences will be conducted in-person in Courtroom 1201, 12th Floor of the Courthouse Tower, unless the Court otherwise directs.

C. Appearances by Counsel with Knowledge and Authority:

All counsel who appear before the Court must be familiar with the case and be fully authorized to enter into agreements as to both substantive and procedural matters on behalf of their clients. Attorneys appearing “of counsel” to the attorneys of record and self-represented parties shall be held to the same requirements. Failure to comply with this rule may be regarded as a default. All counsel and self-represented parties must be on time for all scheduled appearances.

D. Settlements and Discontinuances:

If an action is settled, discontinued, or otherwise disposed of in any manner by the parties, counsel and self-represented parties shall immediately inform the Court by letter, along with a copy of the Stipulation of Discontinuance, and, in an e-filed case, by filing the Stipulation via NYSCEF. In a non-e-filed case, the Stipulation of Discontinuance must be filed with the County Clerk, with a copy provided to Chambers. The Court will not mark any matter settled absent compliance with these instructions.

E. Conduct of Parties and Counsel:

All parties and counsel are expected to conduct themselves appropriately in all in-court and out-of-court (virtual) proceedings and in their communications with each other and to the Court.

Personal attacks upon parties, counsel or the Court will not be tolerated and may result in the imposition of sanctions as the Court determines to be warranted under the circumstances.

F. Ex Parte Communications:

Ex parte communications are strictly prohibited except upon consent of all counsel, or with respect to scheduling matters, the presentation of orders to show cause for signature, or where otherwise permitted by law. Please be aware that all prohibited ex parte communications may be disregarded without any notice, i.e. e-mails, correspondence or telephone messages will not be returned. The Court will not, under any circumstances, consider and distribute any improper ex parte communication.

G. 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 the Court's staff (see CPLR 321[a]). If a represented party communicates with any member of the Court's staff, all counsel shall be informed of the communication and, if it is in writing, shall be sent a copy of that writing.

H. Scheduling and Adjournments:

Counsel and self-represented parties should address questions regarding scheduling or adjournment of appearances to the Secretary, the Part Clerk, the Court Attorney and the Law Clerk at the e-mail addresses listed above.

Requests to adjourn a scheduled appearance shall be submitted at least two days prior to the scheduled appearance date and shall state: (1) the scheduled appearance date; (2) whether the scheduled date has previously been adjourned; (3) whether all parties consent to the requested adjournment; and (4) at least three proposed adjourned dates, which shall be on the appropriate day of the week in accordance with Section I. B. above. In the absence of consent of all parties, the request shall also state the reason(s) for the requested adjournment. Adjournment requests based on the engagement of counsel shall be accompanied by an Affirmation of Engagement in compliance with 22 NYCRR § 125.1.

II. E-FILING RULES AND PROTOCOL

A. E-Filing Rules and Protocol:

Counsel for all parties shall familiarize themselves with the statewide E-Filing Rules (see §§ 202.5-b and 202.5bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile) and the Westchester County E-Filing Protocol available at: <http://ww2.nycourts.gov/courts/9jd/e-file.shtml#ProtocolsRules>. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or nyscef@nycourts.gov. Specific questions about local procedures should be addressed to the Westchester County Supreme Court Civil Calendar Office at (914) 824-5300.

B. Electronic Filing:

All documents filed in mandatory e-filed cases, except those documents subject to the “opt out” provision of § 202.5-bb of the Uniform Rules for the New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, are to be filed through the New York State Courts E-Filing System (NYSCEF). All submissions to the Court, including proposed orders, judgments and letters must be electronically filed.

JUDGE TORRENT IS NOT ACCEPTING WORKING COPIES UNTIL FURTHER NOTICE.

III. Motion Practice Rules

A. Discovery Motions:

The making, submission, scheduling, and calendaring of discovery motions are subject to and governed by the Westchester Supreme Court Civil Case Management Rules. In accordance with those Rules, no discovery-related motion may be interposed until a pre-motion conference has been requested and held.

B. Motion Calendar and Appearances for Cases Assigned to this Part:

All motions made by notice of motion or proceedings commenced by notice of petition assigned to this Part shall be made returnable on any Tuesday the Court is in session. All motions not returnable on a Tuesday will be administratively adjourned to the next Tuesday that the Court is in session.

Unless otherwise directed by the Court, all motions are decided on submission only. A party seeking oral argument on a motion may submit a letter application to the Court, on notice to all other parties having appeared in the action or proceeding, at the time of filing of the motion or responsive papers. Requests for oral argument made after the time for such filing may not be considered. In addition, the Court, upon examination of the submissions of the parties, may sua sponte direct oral argument. If the Court directs oral argument, whether sua sponte or on application of a party, a member of the Court’s staff will notify the parties of the date and time for argument. In the absence of such notification, the motion will be decided on submission.

C. Adjournments of Motions

THE COURT FAVORS RESOLUTION OF ALL MOTIONS ON THE MERITS. HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION HEREIN, REQUESTS FOR ADJOURNMENTS RECEIVED AND/OR RESPONSIVE PAPERS SUBMITTED AFTER THE SCHEDULED RETURN DATE OF A MOTION MAY NOT BE CONSIDERED.

NO MOTION SHALL BE CONSIDERED ADJOURNED UNLESS A MEMBER OF THE COURT'S STAFF NOTIFIES THE PARTIES OF THE COURT'S APPROVAL OF THE ADJOURNMENT.

PARTIES ARE CAUTIONED TO STRICTLY COMPLY WITH THE PROCEDURE FOR SEEKING AN ADJOURNMENT SET FORTH IN THE WESTCHESTER SUPREME COURT CIVIL CASE MANAGEMENT RULES, WHICH ARE AVAILABLE AT:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/civilCaseMgmt/rules/WestchesterCivilRules.pdf>. PURSUANT TO THOSE RULES, REQUESTS FOR ADJOURNMENTS SENT IN ERROR TO IAS PARTS WILL NOT BE PROCESSED.

Pursuant to those Rules, all Motions shall be made returnable in the Motion Support Office. With the exception of pre-motion conferences, all inquiries regarding motions, including adjournments, shall be directed to the Motion Support Office.

Motion Support Office
Contact: Gerard DePaulo, Motion Support Clerk
8th Floor, Courthouse Tower
e-mail: MotionSupportWestchester@nycourts.gov
Phone: (914) 824-5343

1. Sua Sponte Adjournments Upon Submission of Late Papers for Cases Assigned to this Part:

To protect movants against any potential prejudice resulting from the submission of late opposition papers or cross-motions, the Court may sua sponte adjourn for one week any motion on which adverse parties have not been afforded appropriate time to respond. If the Court sua sponte adjourns a motion, a member of the Court's staff will notify the parties of the adjournment.

D. Orders to Show Cause for Cases Assigned to this Part:

If a proposed order to show cause is not filed via NYSCEF, the filing party shall provide an e-mail address at which the signed order to show cause can be delivered. If the order to show cause is signed by the Court, a copy of it shall be served in the manner set forth therein. Unless indicated otherwise, a court appearance is not required on the return date of an order to show cause. If an appearance is required, the order to show cause will so indicate and oral argument will be heard on the return date.

E. Requests for Temporary Injunctive Relief for Cases Assigned to this Part:

When an order to show cause is to be presented to the Court which seeks temporary injunctive relief, including but not limited to a stay or a temporary restraining order, counsel for the moving

party or any self-represented party shall demonstrate compliance with § 202.7(f) of the Uniform Rules for the New York State Trial Courts, regarding notice to affected parties.

F. No Stay of Discovery:

There shall be no stay of pretrial discovery resulting from the filing of a motion made pursuant to CPLR 3211 or 3212, unless otherwise ordered by the Court.

G. Form of Papers:

All motion papers submitted to the Court, including orders to show cause, must be legible, and should be typewritten and double-spaced, with all exhibits labeled (and, in the case of hard copies, affixed with tab markings). Motion papers and all correspondence must indicate the index number assigned to the action.

H. Papers Required on Particular Motions:

1. Dispositive Motions:

For any dispositive motion, the moving party shall include copies of all pleadings filed as of the date the motion is filed. The failure to comply with this requirement may result in the denial of the motion.

2. Motions for Leave to Renew or Reargue:

On any motion seeking leave to renew or reargue a prior motion, the moving party must submit copies of all papers submitted and a copy of the decision on the prior motion. The failure to comply with this requirement may result in the denial of the motion.

3. Motions for Leave to Amend, Supplement, or Correct Pleadings:

On any motion for leave to amend, supplement, or correct a pleading, in addition to the proposed amended, supplemental, or corrected pleading, the moving party shall submit copies of all pleadings filed as of the date of the motion. The failure to comply with this requirement may result in the denial of the motion.

4. Motions for Injunctive Relief:

Where an order to show cause which seeks injunctive relief is to be presented to the Court, copies of the summons and complaint or petition commencing the underlying action must be provided to the Court by the moving party. The failure to comply with this requirement may result in the denial of the order to show cause. Where temporary injunctive relief is sought, counsel for the moving party or any self-represented party shall demonstrate compliance with § 202.7(f) of the Uniform Rules for the New York State Trial Courts regarding notice to affected parties.

5. Default Motions:

On any motion for a default judgment, proof must be presented that a military status investigation of all individual (non-corporate) defendants has been conducted after the time for each such defendant to appear or answer, as applicable, has passed.

I. Reply Papers:

Parties must adhere to the provisions of the CPLR relating to submission of reply papers. Counsel and self-represented parties shall not set forth factual claims or legal arguments in reply papers that were not previously set forth. New factual claims and legal arguments not directly in response to factual claims or legal arguments offered in opposition to a motion or cross motion will not be considered by the Court in its determination of a motion or cross motion.

J. Sur-Reply and Post-Submission Papers:

Counsel and self-represented parties are reminded that the CPLR does not provide for the submission of sur-reply papers, however denominated, or the presentation of papers or letters to the Court after the return date of a motion. Motion practice by correspondence is not permitted. Any opposing counsel or self-represented party who receives a copy of such materials submitted in violation of this rule shall not respond to same.

K. Settled Motions:

In the event that the parties settle, withdraw, or otherwise resolve all or part of a motion before a decision has been rendered, they shall immediately inform the Motion Support Office as indicated above and shall provide a copy of such notice to the Secretary, the Court Clerk, the Court Attorney and the Law Clerk at the e-mail addresses listed above. In addition, a document detailing the withdrawal, settlement, or other resolution of the motion or any part thereof shall be filed via NYSCEF or, in a non-e-filed case, with the County Clerk, and mailed to the Court – Hon. Damaris E. Torrent, A.J.S.C., attn: Secretary / Law Clerk.

M. Motion Decisions and Orders:

Parties are reminded to pay particular attention to any directions for service contained in a decision issued by the Court, which are in addition to, and not in place of, the directions in the Rules below.

1. Written Decisions:

In most instances, a written decision and order will be issued by the Court following submission of the motion. The decision and order will be filed by the Court through NYSCEF or, in a non-e-filed case, with the County Clerk. E-filing parties shall serve documents in hard copy on parties who have not recorded their participation in NYSCEF and shall e-file proof of such service.

2. Bench Decisions:

In certain instances, the Court will render a decision from the bench. Any party seeking a written order shall submit to the Court a proposed order supported by a copy of the transcript of the

proceedings at which the bench decision was rendered. The signed order will be filed by the Court through NYSCEF or, in a non-e-filed case, with the County Clerk. E-filing parties shall serve documents in hard copy on parties who have not recorded their participation in NYSCEF and shall e-file proof of such service.

IV. TRIAL PRACTICE RULES

A. Trial Preparation:

Prior to the commencement of the trial or hearing, counsel shall ascertain the availability of all witnesses and subpoenaed documents. Counsel for any party or any self-represented party who has issued subpoenas for the production of records shall request that the Law Clerk obtain all subpoenaed documents from the file room and shall provide a list of such documents.

B. Interpreters and Special Services:

Upon reporting to the Court for a trial or a hearing, counsel and any self-represented party shall immediately advise the Court 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 suffers from any other disability. Similarly, the Court Clerk shall be immediately informed if there is a need for an easel, shadow box, blackboard, white board, or any other trial aid. Projection equipment, screens, and/or extension cords shall be provided by counsel.

C. Trial Notebook:

Immediately upon assignment to this Part for a trial or hearing, counsel for each party and any self-represented party shall report to the Law Clerk and submit the following to the Court:

1. Marked pleadings and bills of particulars.
2. A statement of the estimated length of trial.
3. A list of all witnesses who counsel plans to call at trial.
4. A 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.
5. A written stipulation governing all facts that are not in dispute.
6. For all jury trials, a proposed jury verdict sheet and a request to charge.
7. In all matrimonial actions, an updated net worth statement and a statement of proposed disposition.
8. A copy of any statutory provisions upon which any party intends to rely.
9. All expert witness reports and disclosures exchanged between the parties.

D. Marking of Exhibits:

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

E. Conference:

Immediately preceding the commencement of the trial, the Court will conduct a conference with all counsel and self-represented parties to discuss preliminary matters and the possibility of settlement. At this conference, counsel must have full authority to settle, or be able to immediately reach the person with such authority by telephone. Additionally, all counsel and self-represented parties shall be prepared to:

1. Advise the Court as to all anticipated disputed issues of law and fact and provide the Court with citations to all statutory and common-law authority upon which they will rely.
2. Stipulate to undisputed facts and the admission of documents, records and other exhibits, for which no evidentiary objection will be made.
3. Alert the Court to any anticipated in limine motions or evidentiary or legal issues they believe will arise during the trial.
4. Provide the Court with a copy of all prior decisions and orders in the case that may be relevant to any in limine applications or evidentiary or legal issues.
5. Discuss scheduling, as well as the number of witnesses to be called at trial, any anticipated issues regarding the attendance at trial of any party, attorney or witnesses, and any other practical problems the Court should consider in scheduling.
6. Alert the Court as to any anticipated requests for a jury instruction relating to missing witnesses or evidence.
7. Alert the Court as to any anticipated request pursuant to CPLR Article 16 for apportionment of liability as to an allegedly culpable non-party.

F. Copies of Transcripts:

Immediately preceding the commencement of the trial, all transcripts of examinations before trial that may be used either to refresh a witness' recollection or for cross-examination shall be provided to the Court. If any part of a transcript of an examination before trial or other recorded proceeding will be read as evidence-in-chief, the proponent of the transcript shall provide a complete copy of it to the Court immediately preceding the commencement of the trial, with citations to the page and line numbers for all portions to be read.

G. Addressing the Court:

Any counsel or self-represented party who is presenting an argument or otherwise addressing the Court, including the making of objections, shall stand while doing so, unless the Court directs otherwise. Any party or counsel who requires a reasonable accommodation in the form of permission to remain seated while addressing the Court is encouraged to contact the Law Clerk via e-mail at bshaffer@nycourts.gov prior to the commencement of trial; however, failure to do so shall not be deemed a waiver of the right to request such an accommodation, which may be sought at any time. All parties and counsel shall assume that an adversary who addresses the Court while seated has received permission to do so; the Court, and not parties or counsel, will raise this issue

if necessary. If it is believed that argument on an objection is necessary, to avoid any inappropriate influence on the jury, counsel or self-represented party shall request permission to approach the bench for a sidebar conference to discuss the matter.

H. Courtroom Behavior:

All remarks and all requests, such as for a read-back of testimony or the assistance of a Court Officer, shall be directed to the Court. Comments shall not be made to opposing counsel or self-represented parties. Personal attacks upon parties, counsel or the Court will not be tolerated and may result in the imposition of sanctions as determined by the Court to be warranted under the circumstances. Parties and counsel shall not attempt to speak over an adversary; only one person shall speak at a time. If a significant discussion with an adversary is required, permission to approach the bench for a sidebar conference should be requested.

I. Use of Exhibits Generally:

Counsel or self-represented parties shall not show anything, including an exhibit or proposed exhibit, to a witness without first showing it to all opposing counsel and self-represented parties. If any counsel or self-represented party believes this procedure will compromise their trial strategy, they shall first request a pre-offer ruling outside the presence of the jury.

J. Use of Exhibits During Summation:

Any counsel or self-represented party who intends during summation to use any type of demonstrative exhibit not marked into evidence must advise the Court and all other counsel and self-represented parties of that intention at the pre-charge conference. Failure to comply with this rule may result in an order precluding use of the exhibit during summation.

K. Examination of Witnesses:

Counsel or self-represented parties shall not approach a witness on the stand during questioning without the Court's permission. In the absence of such permission, the questioning counsel or self-represented party shall not come closer to the witness stand than the line created by the front of the table occupied by plaintiff's counsel. While conducting the examination of a witness, the questioning counsel or self-represented party shall not intentionally make eye to eye contact with the jurors.

The questioning counsel or self-represented party shall allow the witness to complete their answer to a question before asking another question. Counsel or self-represented parties shall not interrupt a witness in the middle of an answer unless the answer is entirely unresponsive, in which case a ruling from the Court shall be requested. If an objection is made during the examination of a witness, the questioning counsel or self-represented party shall not make further inquiry of the witness until the Court rules on the objection.

L. Applications for Mistrial or Curative Instruction

Counsel or self-represented parties who wish to make an application for a mistrial or for a curative instruction based upon the conduct of an adversary shall address the Court and request the Court's permission to make an application outside the presence of the Jury. Whenever practicable, such a request shall be timed so as to minimize disruption of the proceeding, for example, at the conclusion, not in the middle, of a summation. The reasons for such a request shall be presented to the Court and opposing counsel at a sidebar conference, after which the Court will determine whether to excuse the Jury prior to the application being placed on the record. Under no circumstances shall counsel or self-represented parties attempt to argue or discuss the propriety of an adversary's conduct in the presence of the Jury, unless otherwise directed by the Court.

M. Jury Charges:

In all jury trials, a complete list of requests to charge shall be submitted to the Court immediately upon assignment to this Part for trial, with copies to be provided to all other counsel and self-represented parties. If a requested charge is drawn from the current Pattern Jury Instructions (PJI), only the PJI number need be submitted. Where deviations from, or additions to, the PJI are requested, or where an instruction has a space for facts or other information to be filled in, the full text of such requests or insertions must be submitted in writing, together with any supporting legal authority. In addition, such proposals shall be prepared in Microsoft Word format and e-mailed to the Law Clerk at bshaffer@nycourts.gov. At the final charge conference, if marshaling of the evidence is required as to a particular jury charge, counsel and all self-represented parties shall provide the Court with the proposed facts they seek to be presented to the jury.

N. Verdict Sheet:

Immediately upon assignment to this Part for trial, counsel for the parties and any self-represented parties 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 other parties. The verdict sheet shall be in a final, typewritten form, which may be given by the court to the jury. In addition, the proposed verdict sheet(s) shall be prepared in Microsoft Word format and e-mailed to the Law Clerk at bshaffer@nycourts.gov.

O. Post-Trial Submissions

At the conclusion of any non-jury trial, in accordance with the schedule set by the Court, the parties shall jointly submit a transcript of the proceeding, and each party shall separately prepare and submit a post-trial memorandum.

In a matrimonial action, each party shall also submit proposed Findings of Fact and Conclusions of Law and a proposed Judgment of Divorce. Following a trial of equitable distribution issues, each party's post-trial submissions shall identify each item of property as separate or marital and shall state the value of each item of property. Each submission shall also identify all of the parties' outstanding debts as either separate or marital and shall state the amount of each debt. All

assertions as to the separate or marital status of each item of property and the value thereof and each outstanding debt and the amount thereof shall be supported to citations to the trial transcript.

P. Conclusion of Trial

At the conclusion of trial, counsel and any self-represented parties are expected to file any materials necessary to complete the record for purposes of any appeal. In addition, all materials used during the trial shall be removed from the courtroom immediately upon conclusion of the trial. Materials not timely removed may be discarded.

Q. Check-in:

At the start of each day of trial, all counsel and self-represented parties shall check in with the Court Clerk to ensure that the Court will be aware of your presence.

R. Food and Beverage:

Absent the Court's permission obtained in advance, no counsel, party or witness shall bring any food or beverage into the courtroom, except coffee or tea in a covered container or water/soda/juice in a plastic bottle with a cap. Any party or counsel who requires a reasonable accommodation, or who intends to call a witness who requires a reasonable accommodation, in the form of permission to bring into the courtroom any food or beverage not delineated above is encouraged to contact the Law Clerk via e-mail at bshaffer@nycourts.gov prior to the commencement of trial; however, failure to do so shall not be deemed a waiver of the right to request such an accommodation, which may be sought at any time. All parties and counsel shall assume that an adversary or a witness who brings such items into the courtroom has received permission to do so; the Court, and not parties or counsel, will raise this issue if necessary.

V. Rules Applicable to Virtual Proceedings

A. Generally:

All rules applicable to in-person proceedings apply equally to virtual proceedings.

B. Recordings:

No party, counsel or witness may make any recording in any virtual proceeding, including audio or video recordings, photographs, and/or "screenshots".

C. Third-Party Presence and Communication:

With the exception of counsel, no person may be physically present in the same room as a party or a witness, and a party or witness may not communicate by any means with any individual while under oath.

D. Attorney-Client Communication:

Counsel must clearly announce their intent to engage in private communication with their client prior to attempting to do so.

E. Visibility:

A witness and counsel must be visible on screen while the witness is under oath, whether together in the same room or in separate locations.

F. Electronic Devices:

All electronic devices except those being used to communicate with the Court shall be muted at all times.

G. “Chat” Function:

Parties, counsel and witnesses shall not use the “chat” function to communicate during a virtual appearance. All individuals are advised to remain cognizant of the fact that messages sent via the “chat” function in Microsoft Teams are public and cannot be deleted or erased.