

HONORABLE DENISE M. WATSON
ACTING SUPREME COURT JUSTICE

50 Market Street
Poughkeepsie, New York 12601
Tel: (845) 431-1863
Fax: (845) 486-6485

Part Rules

(Adopted September 6, 2016 and effective immediately. These Rules are subject to change.)

Secretary: Viola Cummings, (845) 431-1863
Principal Court Attorney: Thomas E. Dietz, (845) 431-1864; tdietz@nycourts.gov

CERTIFICATION OF PAPERS

Every pleading, written motion and other paper served or filed in an action must be signed by an attorney pursuant to §130-1.1a of the Rules of the Chief Administrator of the Courts.

COMMUNICATIONS WITH THE COURT

- (a) Correspondence: Correspondence, including by e-mail and fax, to the Court shall, without exception, be copied to all counsel and to self-represented parties who have appeared in the action. Correspondence between counsel and/or self-represented parties shall not be copied to the Court unless there is some specific request for judicial action to be served by transmitting copies to the Court. All correspondence must bear the full Title and Index Number of the action and state that a true copy of the correspondence was sent to all other counsel (or self-represented litigant(s) as the case may be) simultaneously with transmittal to the Court.
- (b) Telephone Calls: Except as set forth below telephone calls to the Court staff are permitted only in situations requiring immediate attention that cannot otherwise be obtained by correspondence.
- (c) Fax transmissions: Unless specifically approved by the Court in advance in a particular case, the Court does not accept legal papers of any kind by fax transmission. Faxed communications are not to exceed 3 pages unless prior permission is obtained from the Court or Court's staff.
- (d) E-Mail: E-mails to the Court and Court's staff should be concise and state the relief or action requested to be taken by the Court.

APPEARANCES

- (a) Within ten (10) days of written notification of this Part's assignment to a case, or written notification of a Preliminary Conference, whichever shall first occur, each attorney shall file a record of appearance with chambers. The record of appearance shall include the attorney's name, firm affiliation, mailing address, telephone and facsimile number as well as the party represented. The record of appearance shall also contain a written acknowledgment that counsel is familiar with these Part Rules. Counsel and/or self-represented parties are required to keep the Court informed of their current address, telephone number and, if available, facsimile number at all times.
- (b) Pursuant to §130-2.1 of the Rules of the Chief Administrator of the Courts, the Court may impose financial sanctions and award costs and reasonable attorney's fees against any attorney who, without good cause, fails to appear at a time and place scheduled for an appearance in any action or proceeding.
- (c) Pursuant to §202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party in appearing at a scheduled call of a calendar or at any conference, the Court may grant judgment by default against the non-appearing party.
- (d) At all scheduled appearances and conferences before the Court, only an attorney thoroughly familiar with the action and authorized to act on behalf of a party shall appear.

PRELIMINARY CONFERENCES

- (a) A party may request a preliminary conference any time after issue has been joined. In any event, the Court will schedule a preliminary conference within forty-five (45) days after an RJI has been filed on a matter. A form stipulation and order shall be provided to the parties which shall establish a timetable for discovery within parameters set forth by the Court after determination as to whether a matter should be designated a “standard” or a “complex” case.
- (b) Upon scheduling a preliminary conference, the Court will provide the parties with a form Stipulation and Order. The Stipulation and Order shall provide a date and time for the parties to appear at a compliance conference to ensure that discovery is proceeding as scheduled. The Stipulation and Order shall also identify the deadline selected by the Court for filing a note of issue and certificate of readiness. Counsel shall confer and fill out the Stipulation and Order to provide a timetable for discovery within the parameters set forth by the Court. The attorneys are encouraged to complete the Stipulation and to mail it back to the Court for review and approval in advance of the scheduled preliminary conference.
- (c) **Appearances are required in all matrimonial actions.**
- (d) Once the stipulation has been “so ordered”, no modifications are permitted except by written order of the Court.

MATRIMONIAL ACTIONS

- (a) Upon scheduling a preliminary conference in a matrimonial action, the Court will provide counsel for the parties with:
 - (1) a Matrimonial Order Directing Preliminary Conference; and
 - (2) a Matrimonial Preliminary Conference Stipulation and Order.
- (b) **The parties must be present for the preliminary conference.**
- (c) No later than ten (10) days prior to the preliminary conference in any matrimonial action, each party shall also file the following documents with the Court:
 - 1. Retainer agreement and statement of client’s rights and responsibilities;
 - 2. Statement of Net Worth; and
 - 3. Most recent paystub and income tax return.
- (d) At the preliminary conference, counsel shall be prepared to discuss all issues identified in the Matrimonial Order Directing Preliminary Conference. No later than ten (10) days prior to the preliminary conference, counsel shall also exchange all documents identified in that Order.
- (e) At the preliminary conference, the parties and their counsel shall fill out and execute the Matrimonial Preliminary Conference Stipulation and Order, for review and approval by the Court.
- (f) Any application regarding child support must be accompanied by a completed Child Support Worksheet.

COMPLIANCE CONFERENCE

The preliminary conference order shall provide a date and time for the parties to appear at a compliance conference.

- (a) At the compliance conference, the Court will ensure that discovery is proceeding as scheduled.
- (b) Unless a note of issue has been earlier filed, the Court shall direct a date as the deadline for filing a note of issue and certificate of readiness.

DISCLOSURE

- (a) Parties who have a discovery dispute are NOT to wait until the Compliance Conference to bring such dispute or complaint about non-disclosure to the Court’s attention. Rather, counsel (or self-represented litigant) who believes that discovery is not being conducted in accordance with the Preliminary Conference (or other Court) Order is to discuss, in good faith, as required by Court Rule 202.7, the claimed non-compliance with the counsel or self-represented litigant who is claimed not to be complying with the Court Order. A pro forma letter does not constitute a good faith effort. There must be actual substantive communication between counsel, either telephonically or in writing, regarding the claimed

failure to engage in discovery and the claimed compliance or reason for noncompliance.

Exception: Where an Order of Protection prohibits one party from contacting another party, the party who believes that discovery is not being complied with shall contact the Principal Court Attorney without contacting the opposing party.

- (b) If counsel cannot resolve the discovery issue between themselves after a good faith effort, then the counsel who believes that discovery is not being conducted in accordance with the Court's Order is to contact the Court to request an expedited conference. The parties are **NOT** to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court. The parties are not to make any discovery motion concerning discovery without having first requested the Court's intervention by letter as provided for herein.

PRETRIAL CONFERENCE

- (a) Within 45 days of the filing of a note of issue, the Court shall schedule a pretrial conference.
- (b) At the pretrial conference, the Court shall schedule a date certain for trial of all outstanding issues. The Court will also explore referring the case to a referee, if appropriate.
- (c) At the pretrial conference, the Court shall establish a deadline for the exchange of expert witness information pursuant to CPLR §3101(d)(1) which shall, in no event, be later than ninety (90) days before trial for the party bearing the burden of proof on that issue. The opposing party must serve its disclosure within forty-five (45) days of trial. Any amended or supplemental expert disclosures shall be allowed only with leave of the Court on good cause shown. The statutory stay of disclosure upon the service of a dispositive motion (CPLR 3214[b]) shall not apply to the service of these expert responses. Unless the Court directs otherwise, a party who fails to comply with this rule will be precluded from offering the testimony and opinions of the expert for whom a timely response has not been given.
- (d) The Court will explore limitation of issues for trial, including any application that counsel anticipates making to limit or preclude testimony or other evidentiary matters. If an evidentiary issue cannot be resolved by the Court at the pretrial conference, a motion in limine briefing schedule shall be established. The return date of that briefing schedule, including any adjourned return dates, shall be at least thirty (30) days before the trial date. The intent of this rule is to avoid in limine applications on the eve of, or during, trial of a matter. Failure to bring an in limine application before the Court in a timely manner may result in summary denial of the application.
- (e) Counsel should be prepared to discuss settlement and should have full authority from their respective clients.
- (f) The plaintiff shall file, no later than five (5) days prior to the Pretrial Conference a copy of each of the following:
1. marked pleadings;
 2. verified bill of particulars; and
 3. any medical reports and records

TRIALS

- (a) Once scheduled, a trial shall not be adjourned for any reason other than the actual engagement of counsel as provided for in §125.1 of the Rules of the Chief Administrator of the Courts. Any application for an adjournment must be made in writing and must be supported by an affirmation of counsel establishing the requisite grounds set forth in 22 NYCRR §125.1.
- (b) Matrimonial Actions Only:
1. Expert Witnesses: At least ninety (90) days prior to the trial date set forth below, each party shall serve and file with the Court a written report of each expert witness whom the party expects to call at trial and, at least sixty (60) days prior to the trial date set forth below, each party shall serve and file with the Court any reply report. If a party intends that a written report shall substitute at trial for direct testimony, that party shall so advise the other party and the Court at least ten (10) days prior to trial.

2. Witnesses (Other Than Expert): At least ten (10) days prior to trial, each side shall submit to the Court and the other side a list of all other witnesses (except impeachment or rebuttal witnesses) whom that side intends to call at trial, specifying, where applicable, those whose depositions will be used.
3. Statement of Proposed Disposition: At least ten (10) days prior to trial, each side shall submit to the Court and the other side a statement of proposed disposition. 22 NYCRR §202.16(h).
4. Exhibits: The parties shall consult and work out a stipulation governing the authenticity and admissibility of all trial exhibits concerning which the parties can agree, which exhibits shall be premarked before the case is called for trial. Ten (10) days prior to trial, the parties shall submit to the Court a list or lists of:
 - (i) all exhibits stipulated to be admissible;
 - (ii) plaintiff's proposed additional exhibits, and
 - (iii) defendant's proposed additional exhibits.

MOTIONS

- (a) MOTIONS FOR SUMMARY JUDGMENT SHALL BE MADE WITHIN SIXTY (60) DAYS AFTER FILING THE NOTE OF ISSUE.
- (b) Motions are returnable on Mondays. There will be no appearances unless specifically directed by the Court.
- (c) Original motion papers should be submitted directly to the County Clerk, accompanied by an affidavit/affirmation of service and the required fees. Courtesy hard copies of the initiating motion, answering and reply papers with exhibit tabs must be delivered to chambers by the motion return date, along with a copy of the filing confirmation notice received from the NYSCEF site, if applicable, and proof of payment to the County Clerk of all required fees.
- (d) All affirmations, affidavits and memoranda of law must contain numbered pages and exhibit tabs.
- (e) All documents required to decide the application must be attached to the motion and any hard copies delivered to chambers. It is not sufficient that documents may be on file with the Clerk of the Court.
- (f) The Court does not accept sur-reply papers, whether submitted as formal motion papers or correspondence. The Court will not consider new issues that have been improperly raised for the first time in reply papers. If there has been a change in the law while the motion is pending that counsel believes will have a material impact on the Court's consideration of a fully-submitted motion, counsel may fax a two-page letter on notice to opposing counsel requesting a conference on that issue. Opposing counsel may file a response letter within three (3) business days. The Court will notify the parties whether a conference will be scheduled.
- (g) Counsel must provide an additional copy of any proposed order or judgment submitted to conform to the original. Orders and judgments must have at least one line of text on the signature page.
- (h) Motion papers, orders and judgments must be accompanied by a stamped, self addressed envelope.
- (l) Motions in limine are also subject to the requirements of the "Pretrial Conference" section of these Part Rules.
- (j) Requests for adjournment of motions maybe requested on consent of all counsel. Even if a requested adjournment is on consent of all counsel, the request must also be approved by the Court before it will be deemed granted. No adjournments will be granted for motions returnable within thirty (30) days of the trial date.
- (k) The party requesting an adjournment must fax the adjournment request to the Court, on notice to all counsel. Unless good cause is shown, no more than two adjournments of a motion date shall be permitted on any matter. A written adjournment request must:
 - (i) identify the current motion date;
 - (ii) identify the number of adjournments that have previously been requested, if any;
 - (iii) state whether the request is made on consent of all counsel; and
 - (iv) identify the proposed motion schedule.

- (l) Counsel shall immediately notify the Court whenever it becomes unnecessary to decide a motion.

ADJOURNMENTS

- (a) Adjournments of scheduled trials and hearings are not permitted except as provided in 22 NYCRR §125.1 and in accordance with the procedure set forth therein.
- (b) Adjournments of motions and conferences may be obtained on consent of opposing counsel.
- (c) All adjournments must be confirmed in writing to the Court, by the requesting party, and a copy of the letter sent to all parties. No more than two adjournments shall be permitted on any matter unless written application is made to and approved by the Court. Adjournments are only granted with leave of the Court.

SETTLED AND DISCONTINUED CASES

Counsel shall immediately notify the Court of a case disposition, in writing. Defendant is directed to comply with 22 NYCRR §202.28.

FIDUCIARY APPOINTMENTS

- (a) In order to be eligible for appointments to serve as a referee, Court evaluator, guardian ad litem, receiver, attorney for receiver or attorney for an Alleged Incompetent Person (AIP), counsel must appear on the Part 36 list promulgated by the Office of Court Administration.
- (b) In order to be eligible for appointment to serve as attorney for a child (f/k/a law guardian), counsel must be a member of the Dutchess County Attorney for Child Panel.
- (c) Court evaluators and appointed attorneys must complete and file each of the following forms:
 1. Notice of Appointment (UCS-830.1);
 2. Statement of Approval of Compensation (UCS-830);
 3. Certification of Compliance (UCS-830.3); and
 4. Affirmation of legal services

E-FILING

(a) RULES AND PROTOCOL

- (1) All parties should familiarize themselves with the statewide E-Filing Rules (Uniform Rules §§202.5-b and 202.5-bb – available at www.nyCourts.gov/efile).
- (2) General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@nycourts.gov
- (3) Specific questions relating to local procedures should be addressed to the Civil Calendar Office 845-431-1720.

(b) ELECTRONIC FILING

All documents in mandatory e-filed cases, except documents subject to the opt-out provision of Section 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, proposed judgments, and letters, must be electronically filed.

(c) WORKING/HARD COPIES

It is necessary to provide working/hard copies directly to Chambers when E-Filing.