

# INDIVIDUAL PART RULES HON. GINA C. CAPONE

Supreme Court of the State of New York  
Putnam County Courthouse  
20 County Center, 4th floor, Courtroom 401  
Carmel, New York 10512

Chambers' Telephone: (845) 208-7828  
Fax: (212) 618-2149<sup>1</sup>  
Email: [9JD-JudgeCapone@nycourts.gov](mailto:9JD-JudgeCapone@nycourts.gov)

(Revised March 2021 to incorporate the newly amended  
Uniform Civil Rules for the Supreme Court and the County Court)

Commencing January 2020, matters before the Honorable Gina C. Capone, Justice of the Supreme Court, Putnam County, shall be conducted pursuant to the following information, practices, rules and procedures:

## **STAFF**

Vanessa Pairis, Principal Law Clerk  
Diana Ganis, Assistant Law Clerk  
Geraldine Cillo, Part Clerk

## **I. Communications with the Court**

**A. Correspondence.** Correspondence to the Court shall, without exception, be copied to all adversary Counsel and pro se (self-represented) litigants. Correspondence between Counsel and/or pro se litigants shall not be copied to the Court unless there is some specific judicial purpose to be served by transmitting copies to the Court. Faxes, emails, and letters addressing substantive non-procedural matters, will not be considered by the Court absent proof and advanced notice, and shall be treated as having been denied without further action by the Court.

**B. Telephone Calls.** Telephone calls to the Court staff are permitted only in urgent situations requiring immediate attention that cannot be attained by correspondence.

**C. No Litigation By Letter.** The Court does NOT permit litigation by way of letter or email correspondence to the Court, or by way of being copied on letter and/or email

---

<sup>1</sup>Alternate Fax Number: (845) 431-1934

correspondence by and between Counsel. Any such submission shall be rejected by the Court without further action or consideration.

**D. Fax transmissions.** Unless specifically approved by the Court in advance, the Court does not accept legal papers of any kind by fax transmission. Faxed communications shall not exceed 3 pages unless prior permission is obtained from the Court or Court's staff.

**E. E-Mail.** E-mails to the Court and Court's staff should be concise, stating the relief or action requested to be taken by the Court. All parties must be copied on the email. The email address for chambers is [9JD-JudgeCapone@nycourts.gov](mailto:9JD-JudgeCapone@nycourts.gov). Parties are also directed to Section 202.5 of the Uniform Civil Rules for the Supreme Court and the County Court.

## **II. E-Filing Rules and Protocol**

**A. E-Filing Protocols.** Counsel and pro se litigants shall familiarize themselves with the statewide E-Filing Rules (§§202.5-b and 202.5-bb of the Uniform Rules for the New York State Trial Courts, available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)) and the Putnam County and Supreme Courts E-Filing Protocols available at [http://www.nycourts.gov/courts/9jd/putnam/putnam\\_e-file/putnam\\_efile\\_protocol.pdf](http://www.nycourts.gov/courts/9jd/putnam/putnam_e-file/putnam_efile_protocol.pdf).

General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us). Specific questions about local procedures should be addressed to the Putnam County and Supreme Court Clerk's Office at (845) 208-7854.

All documents in mandatory e-filed cases, except 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, except correspondence (see Rule I, supra), must be electronically filed.

### **B. Working Copies.**

**Pursuant to Administrative Order 267/20, the Court is not currently requesting working copies of any documents filed electronically**

Counsel and pro se litigants MUST provide working copies of all legal papers which require judicial action (e.g., motions, notices of settlement, ex parte applications and proposed orders). The working copy of a motion must include all documents filed in support of the motion, including exhibits WITH external tabs, as required by Rule IV(A)(5) below. Working copies are NOT required in uncontested matrimonials, mortgage foreclosure actions, credit card actions, and motions to discontinue foreclosure actions. Please do not include a self-addressed stamped envelope with the working copies.

All working copies MUST include a copy of the NYSCEF Confirmation Notice, firmly fastened, and must comply with all the requirements of the Putnam County and Supreme Courts

E-Filing Protocols. The Confirmation Notice is generated when the document(s) is(are) e-filed and is available in the specific case file at [www.nycourts.gov/efile](http://www.nycourts.gov/efile). Working copies that do not include a NYSCEF Confirmation Notice will be rejected.

Working copies shall be mailed or hand-delivered to the Putnam County Chief Clerk's Office within 24 hours of e-filing, so as to be received by Chambers no later than the return date or notice of settlement date, or as otherwise directed, or permitted by the Court.

Counsel shall not submit working copies of letters to the Court that have been uploaded to the system.

### **III. Court Conferences and Calendar Call**

**A. General Rules.** The Court adopts the “Staggered Court Appearances” mechanism promulgated in the Uniform Civil Rules for the Supreme Court and County Court (*see* Section 202.23). While the Court may have a general calendar call at 9:30 a.m. weekdays, in courtroom 401 of the Putnam County Courthouse, parties and counsel can anticipate being assigned either a set time or a time interval during which the appearance is expected to be held.

Counsel, including per diem covering counsel and pro se litigants, must appear on time, be fully familiar with the action(s) on which they appear, be authorized and prepared to discuss all factual and legal issues presented by the litigation and settlement demands or offers, and be authorized to enter into any agreement on behalf of their client (*see* Section 202.1 Uniform Civil Rules for the Supreme Court and County Court).

In matrimonial actions, attorneys are to appear with their clients for all conferences, unless such appearances are dispensed with by the Court either in its own discretion or on prior written request, on notice to the adversary, and, if applicable, the children(s)' attorney(s). In non-matrimonial actions, parties need not appear for conferences, unless directed by the Court.

If counsel or a party is unable to appear on time due to unforeseen circumstances (i.e., delays due to inclement weather or road closures), he/she should contact opposing counsel, and advise the Part Clerk or Court's staff, by telephone and/or email, as soon as possible. Tardy arrivals will not be tolerated.

Counsel scheduled to appear simultaneously before this Court and another Court must communicate that fact to Chambers prior to the date of appearance so the conflicting appearances can be reconciled. Counsel are not to rely on opposing counsel to advise the Court of their conflict at the time the case is called. In the event counsel does not advise the Court of a conflict, the Court may proceed in the absence of that attorney.

Where a party is being indemnified by an insurer, appearing counsel must advise the Court of the applicable policy limits afforded to the defense, as well as the name, claim number, and contact information of the adjuster assigned to the matter.

**B. Adjournments.** A request to adjourn a conference must be made in writing by email or fax to Chambers (not uploaded to NYSCEF) at least forty-eight (48) hours in advance of the scheduled conference, unless there is an actual emergency, which must be stated in the application. All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) that the opposing parties have been notified and whether the opposing party(ies) consent(s) or object(s) to the application; and 3) the length of the adjournment sought or, if on consent, a date all parties are available. All such communications must be copied to all counsel and self-represented parties (*see* Section 202.23 Uniform Civil Rules for the Supreme Court and County Court).

Where the adjournment sought is not on consent, the requesting party should additionally briefly set forth the reason offered by the non-consenting party for his/her lack of consent. Opposing counsel or self-represented party may succinctly provide a response and reason for objecting to the requested adjournment, if so desired. No further communication concerning the request for adjournment will be permitted. The request and the response, if any, are NOT to be used to advocate a position on the substantive dispute and shall address only the reason that consent for the requested adjournment is being declined.

The Court will advise the requesting party if the requested adjournment has been granted. The requesting party shall advise all other parties to the action if the adjournment request was granted. The parties should not assume that the request for adjournment has been granted unless specifically advised by the Court.

**C. Preliminary Conferences.** Preliminary Conferences shall be conducted within 45 days: (1) after a written Request For Judicial Intervention ("RJI") is duly filed with the Office of the Clerk in accordance with Uniform Rule §202.12(a); or (2) after an appropriate notice is filed in medical malpractice actions pursuant to Uniform Rule §202.56; or (3) after an appropriate notice is filed in matrimonial actions pursuant to Uniform Rule §202.16; or (4) upon a specific directive by the Court. Preliminary conferences in matrimonial actions will be conducted in accordance with Uniform Rule §202.16 and DRL §236(B)(4). Preliminary Conferences in medical, dental and podiatric malpractice actions will be conducted in accordance with Uniform Rule §202.56(b).

In the lead up to your scheduled Preliminary Conference, you will receive a P.C. order for completion prior to your conference. Parties are to work together to set the relevant deadlines contained therein. Counsel are also directed to Section 202.11 of the Uniform Civil Rules for the Supreme Court and the County Court with respect to the obligation on parties and counsel to meet and confer prior to the preliminary conference.

At the Preliminary Conference, unless the P.C. order deadlines have been completed by counsel, the Court will set specific dates for completion of various items of discovery, the date by which all disclosure must be completed, and dates for a Compliance Conference and for a Settlement Conference. All counsel and pro se litigants are expected to abide by, and comply

with, the Court's discovery schedule and deadlines. No modifications of the dates set by the Court are permitted, except by Order of the Court (*see* Sections 202.10 & 202.20-e of the Uniform Civil Rules for the Supreme Court and the County Court).

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. The Uniform Civil Rules for the Supreme Court and the County Court require the parties to resolve any and all discovery disputes through informal procedures, rather than motion practice (*see* Section 202.20-f of the Uniform Civil Rules for the Supreme Court and the County Court).

Counsel (or pro se 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, the claimed non-compliance with the counsel or pro se litigant who is allegedly not compliant with the Court Order, as required by Court Rule §202.7. 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, on the one hand, and the claimed compliance or reason for noncompliance, on the other. The parties are NOT to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court. Similarly, any scheduling issues for depositions, IME's, appraisals, etc. must be addressed by Counsel, and must not wait until the Compliance Conference (*see* Section 202.20-f of the Uniform Civil Rules for the Supreme Court and the County Court).

The parties are NOT to make any motion concerning discovery without having first attempted to resolve the issue informally (*see* Section 202.20-f of the Uniform Civil Rules for the Supreme Court and the County Court). 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 by letter (*see* Rule I, *supra*), to advise of the nature of the dispute and the efforts that have been made to attempt to resolve it. The Court will either resolve the issue by letter or by scheduling a conference.

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 Part Clerk without contacting the opposing party.

**D. Compliance Conferences.** The purpose of the Compliance Conference is for Counsel and pro se litigants to report to the Court that pre-trial discovery is progressing, or has been completed, so the Court can direct a date on which a Note of Issue shall be filed, and can schedule Pre-Trial Conference and trial dates. Settlement discussions may also take place. Counsel must be fully familiar with the action and all previous settlement discussions that have taken place so that meaningful discussions may be held. Parties are not permitted to file a Note of Issue in any action unless permission to do so is granted by the Court. As is the rule with respect to a Preliminary Conference, counsel has an obligation to consult prior to the compliance

conference to reach an agreement as to the resolution of the case, discovery, potential use of ADR, or any other exchanges of information that would advance or aid the settlement of the matter (*see* Rule 202.11 of the Uniform Civil Rules for the Supreme Court and the County Court).

Not later than twenty (20) days after the filing of a Note of Issue, the parties must enter into a Stipulation, setting forth: (1) agreed upon matters of fact, and (2) the admissibility of documents where the accuracy and reliability of these documents are not in dispute, such as bank statements, closing statements, credit card statements, tax returns, benefit plans and real estate documents (*see* Section 202.26 of the Uniform Civil Rules for the Supreme Court and the County Court). Each party reserves all rights to raise issues and arguments, notwithstanding the admissibility of the document(s). The parties' failure to stipulate to undisputed matters of fact or the admissibility of documents, thereby generating unnecessary trial time, shall be a factor in evaluating requests for the granting, or denying, of counsel fees, if otherwise authorized.

**E. Expert Disclosure.** Except as otherwise directed by the Court, a party who has the burden of proof on a claim, cause of action, damages or defense shall serve its response to an expert demand pursuant to CPLR §3101(d) on or before the filing of the Note of Issue, if not sooner filed. Any opposing party shall serve its answering response pursuant to CPLR §3101(d) within 60 days after the filing of the Note of Issue. Any amended or supplemental expert disclosure shall be allowed only with the permission of the Court. Unless the Court directs otherwise, a party who fails to comply with this rule may be precluded from offering the testimony and opinions of the expert for whom a timely response has not been given. Counsel and/or the parties are further directed to consult in good faith to identify those aspects of their respective experts' anticipated testimony that are not in dispute. The Court may direct that any agreements reached in this regard shall be reduced to a written stipulation (*see* Section 202.26(c) of the Uniform Civil Rules for the Supreme Court and the County Court).

The statutory stay for disclosure [CPLR §3214(b)] upon the service of a dispositive motion under CPLR §3211 shall not apply to the service of these expert responses, or other disclosure devices or deadlines.

The word "expert" shall include, but is not limited to, any physician, dentist, chiropractor, psychiatrist, psychologist, other health care provide of any specialty, economist, engineer, architect, lawyer, accountant, appraiser, rehabilitation counsel or other person who will testify concerning his/her qualifications and give opinions concerning the issues in the case. However, "expert" shall not include a treating physician or other treating health care provider whose (record(s) and report(s) have been timely provided and whose testimony is limited solely to the contents of the records or reports provided. In the event that a treating physician or other treating health provider is intending to testify as to matters not within the contents of the records or reports provided, then disclosure as an "expert" is required.

Any motion by a party to preclude, or limit expert testimony under this rule, must be

made as soon as practicable but no later than (30) days after the party's receipt of the expert disclosure or the motion will be waived.

This rule does not apply to matrimonial actions.

**F. Settlement Conferences.** The Court will conduct a Settlement Conference approximately 30 days after the Compliance Conference. Per Diem counsel are not permitted. Counsel attending the Settlement Conference must be fully familiar with the action and be authorized to discuss all factual and legal issues presented by the litigation, settlement demands or offers, witness scheduling, and trial procedure – including, for example, whether any party or witness will require a translator or accommodation for a physical challenge. Counsel also must be authorized to enter into binding settlements on terms agreeable to the parties and to the Court. The Court will explore limitation of issues for trial (e.g., in an appropriate case, whether liability may be conceded or certain claims or defenses withdrawn) (*see* Sections 202.26 & 202.20-h of the Uniform Civil Rules for Supreme Court and the County Court).

Counsel are advised that, in an effort to foster open settlement discussions, the Court may meet with one side or the other apart from opposing counsel upon notice and consent of opposing counsel.

**G. Pre-Trial Conference.** A Pre-Trial Conference with all counsel and pro se parties will be conducted prior to trial. Prior to this conference, counsel are required to confer in a good faith effort to identify matters not in contention, resolve disputed questions without need for Court intervention and further discuss settlement of the case. Where a pre-trial conference is scheduled, counsel shall be prepared to discuss all matters as to which there is disagreement between the parties and settlement of the matter, and the Court may require the parties to prepare a written stipulation of undisputed facts (*see* Sections 202.26 & 202.20-h of the Uniform Civil Rules for Supreme Court and the County Court).

If the matter is scheduled for a **Virtual Bench Trial or Virtual hearing**, the Court has separate Virtual Hearing and Bench Trial Protocols & Procedures packet that will be provided to the attorneys and litigants. These protocols and procedures closely mirror the requirements of counsel and the parties for an in-person trial or hearing.

**H. Pre-Trial Memoranda, Exhibit Book and Requests for Jury Instructions**

(a) Counsel shall submit pre-trial memoranda at the pre-trial conference, or such other time as the Court may set. Counsel shall comply with CPLR 2103(e). A single memorandum no longer than 25 pages shall be submitted by each side. No memoranda in response shall be submitted.

(b) On the first day of trial or at such other time as the Court may set, counsel shall submit an indexed binder or notebook, or the electronic equivalent, of trial exhibits for the Court's use. A copy for each attorney on trial and the originals in a similar binder or notebook for

the witnesses shall be prepared and submitted. **Plaintiff's exhibits shall be numerically tabbed, and defendant's exhibits shall be tabbed alphabetically.**

(c) Pre-Marking of Exhibits. Counsel for the parties shall consult prior to trial and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. Prior to the commencement of the trial, each side shall then mark its exhibits into evidence, subject to Court approval, as to those to which no objection has been made. All exhibits not consented to shall be marked for identification only. If the trial exhibits are voluminous, counsel shall consult the clerk of the part for guidance. The Court will rule upon the objections to the contested exhibits at the earliest possible time. Exhibits not previously demanded which are to be used solely for credibility or rebuttal need not be pre-marked (*see* Section 202.34 of the Uniform Civil Rules for Supreme Court and the County Court).

(d) Jury Charge. Where the trial is by jury, counsel shall, on the first day of the trial or such other time as the Court may set, provide the Court with case-specific requests to charge and proposed jury interrogatories. Where the requested charge is from the New York Pattern Jury Instructions - Civil, a reference to the PJI number will suffice. Submissions should be by hard copy and electronically, as directed by the Court (*see* Section 202.20-h of the Uniform Civil Rules for the Supreme Court and County Court).

**I. Proposed Verdict Sheet.** A Proposed Verdict Sheet, jointly prepared by all parties, typewritten and in final form for presentation to the jury, shall be submitted. If the parties cannot agree to the questions to be posed to the jury prior to the Pre-Trial Conference, each party will present a Proposed Verdict Sheet, which will be served upon all the parties. Proposed Verdict Sheets must be submitted in writing and by email in Word Perfect format to the Court's Principal Law Clerk, as directed by the Court.

**J. Motions In Limine.** Written motions in limine must be made returnable on the day of the Pre-Trial Conference. Such motions must be made on no less than seven (7) days' notice to opposing counsel and/or pro se parties. To the extent possible, the Court will decide such motions prior to commencement of jury selection.

#### **IV. Motions/Orders to Show Cause/Temporary Restraining Orders**

**A. General Rules.** The general rules for this Court are as follows:

1. Parties may move by Notice of Motion or Order to Show Cause, depending on the exigency of the relief sought. All motions and cross motions in matrimonial actions are to be made by Order to Show Cause.

Proposed Orders to Show Cause submitted for consideration by the Court must include an email address and fax number to permit a conformed copy of the signed Order to be sent to the movant.



2. Written applications by Notice of Motion (or Notice of Petition, where applicable) must be made returnable on any Friday the Court is in session.

3. Absent express permission obtained in advance from the Court, briefs/ memoranda of law are limited to 20 pages each, and affirmations and affidavits are limited to 15 pages each. Papers exceeding these limitations may not be considered, or may be rejected, by the Court. Motion papers are limited to Moving Papers, Opposing Papers and Reply. Sur-Reply papers are not permitted. ALL paperwork over ½-inch thick must be acco-fastened, not stapled.

4. There will be no oral argument required on any motion or Order to Show Cause unless directed by the Court. Parties seeking oral argument of a motion or Order to Show Cause may request that oral argument be heard by stating "Oral Argument Requested" above the Index Number on the first page of the papers submitted. If the Court grants the request for oral argument, the Court staff will inform the requesting party's attorney of the date and time for argument. It is the responsibility of that person to inform all other attorneys of the date and time set, and failure to do so may result in sanctions. A request for oral argument should not be construed as an automatic grant of same (*see* Section 202.8-f of the Uniform Civil Rules for the Supreme Court and County Court).

5. Except by permission of the Court, all motion papers and Orders to Show Cause must be typewritten (minimum 12-point type), double-spaced, securely bound and entirely legible. All exhibits must be legible and labeled with external tab markings. **Plaintiffs shall designate exhibits by number; Defendants shall designate exhibits by letter.** Exhibit lettering or numbering should not begin anew for subsequent papers submitted by the same party. Any submission over 1/2-inch thick must be acco-fastened, NOT stapled.

6. Reference to exhibits longer than ten (10) pages shall indicate the page number on which the information cited is contained. Should the exhibit not contain page numbers, the exhibit shall be Bates stamped.

7. Citations to legal authority must be to the official citations.

8. Deposition/Examination Before Trial transcripts included as exhibits must be single, front-faced pages only. Parties shall not submit manuscripts.

**B. Orders to Show Cause & TROs.** Motions shall be brought on by order to show cause only when there is genuine urgency (e.g., applications for provisional relief), a stay is required or a statute mandates so proceeding (*see* Section 202.8-e). Unless the moving party can demonstrate significant prejudice by reason of giving notice, or that notice could not be given despite a good faith effort to provide notice, a temporary restraining order will not be issued ex parte.

Unless excused by the Court, the applicant must give notice at least 24 hours in advance

of the date and time that any Order to Show Cause which includes a request for a Temporary Restraining Order or other emergency relief is being presented to the Court, and provide copies of all supporting papers. Any application for temporary injunctive relief, including but not limited to a motion for a stay or a temporary restraining order, shall contain, in addition to the other information required by this section, an affirmation demonstrating either that: (a) notice has been given; or (b) notice could not be given despite a good faith effort to provide it or (c) there will be significant prejudice to the party seeking the restraining order by giving of notice. In a true emergency, the Court, in its discretion may dispense with the 24-hour notice requirement.

The Court's staff is to be advised by telephone or email that a party intends to submit an Order to Show Cause for signature before counsel presents him/herself at the Court's Part or Chambers with the papers. The Court's staff may request that the presenting party fax or email a copy of the papers which are going to be submitted for signature prior to counsel appearing.

**C. Summary Judgment Motions.** Summary Judgment motions must be made within sixty (60) days of the filing of the Note of Issue. If a Summary Judgment motion is made prior to completion of discovery, the making of the motion is not to be deemed a stay of discovery. The parties shall continue to abide by any Order or Notice pertaining to discovery, unless otherwise directed by the Court.

(a) Upon any motion for summary judgment, other than a motion made pursuant to CPLR 3213, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In such a case, the papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party and, if necessary, additional paragraphs containing a separate short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Each numbered paragraph in the statement of material facts required to be served by the moving party will be deemed to be admitted unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.

(d) Each statement of material fact by the movant or opponent pursuant to subdivision (a) or (b), including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion (*see* Section 202.8-g of the Uniform Civil Rules for the Supreme Court and County Court).

**D. Adjournments of Motions.** A request to adjourn a motion must be made in writing and transmitted to Chambers by email [[9JD-JudgeCapone@nycourts.gov](mailto:9JD-JudgeCapone@nycourts.gov)] or fax [212- 618-2149]

(see Rule I, supra), prior to the return date of the motion, copied to all counsel and pro se parties. Adjournment requests will only be granted by the Court, not by counsel.

All applications for adjournments must set forth: (1) the current return date; (2) the reason why an adjournment is necessary; (3) whether the opposing party(ies) consent(s) or object(s) to the application; (4) the length of the adjournment sought; and (5) the number of prior requests for adjournment and the dates previously set. The letter request and the response, if any, are NOT to be used to advocate a position on the substantive dispute and shall address only the reason that consent for the requested adjournment is being declined. The Court will advise the requesting party whether the adjournment is granted, and if so, the new return date for the motion. That party must immediately advise all other parties in writing, and if fails to do so, sanctions may be imposed.

No more than three (3) adjournments of any motion or cross-motion will be permitted. The total period of time that a motion may be adjourned shall not exceed 60 days (see Section 202.8-a(c) of the Uniform Civil Rules for the Supreme Court and County Court).

**D. Infant Compromises.** All infant compromises must be brought by Order to Show Cause in accordance with the CPLR and must comply with the provisions found in Section 202.67 of the Uniform Civil Rules for the Supreme Court and County Court.

**E. Motion Withdrawal.** Counsel must immediately notify the Court by email or fax, stating his or her intent to withdraw a motion.

## **V. Judgments, Decisions and Orders**

Where the Court issues a Bench Decision and a party desires a written Decision or Order, the party may submit a proposed Order to the Court, together with the transcript of the proceedings at which the Bench Decision was rendered to be "So Ordered." Proposed Orders or Judgments are not to be submitted by fax but may be submitted by email and must be on notice.

Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice will be returned unsigned unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with 22 NYCRR §202.48 has been included.

All papers which are submitted for signature by the Court shall be identified on the signature page so that the document being signed by the Court can be identified. Example: Jones v. Jones, Index #/year, Type of Document (Judgment of Divorce, etc).

## **VI. Foreclosure Actions**

All motions must include a Proposed Order which disposes of the motion or application

for the Court's signature. Copies of templates to be used by counsel can be found on the OCA website at <http://www.nycourts.gov/forms/foreclosure/index.shtml>. In addition to the general provisions included in such orders, the movant shall include the additional provisions as set forth below.

**A. Order of Reference.** All proposed Orders of Reference submitted to the Court must contain the following paragraphs:

ORDERED that pursuant to 22 NYCRR §36.1, the Referee shall be subject to Part 36 of the Rules of the Chief Judge; and it is further

ORDERED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR 36), including but not limited to, Section 36.2(d) ("Limitations on appointments based on compensation"), and if the Referee is disqualified from receiving an appointment pursuant to the provisions of Part 36, the Referee shall notify the appointing judge forthwith; and it is further

ORDERED that by accepting this appointment, the Referee certifies he/she is familiar with the duties and responsibilities of a Referee and has experience in such area, and is fully capable and prepared to assume those duties and responsibilities which are commensurate with his/her abilities; and it is further

ORDERED that attorneys or support staff in the appointee's office may perform tasks under the appointee's direct supervision, unless otherwise directed by the Court, but all substantive appearances and reports must be performed and/or created by the appointee; and it is further

ORDERED, upon receipt of this Order and UCS Form 872 (Notice of Appointment and Certification of Compliance), the Referee shall complete, execute and return the UCS Form 872 to the Fiduciary Clerk; and it is further

ORDERED that the Referee is entitled to a fee of \$350.00 for the computation report; \$250.00 for any sale that is canceled on less than 24 hours' notice to the Referee; \$250.00 for any third-party closing and \$750.00 upon the sale; and it is further

ORDERED that if the Referee's fees are anticipated to exceed \$1,100.00, the Referee must apply [by letter] to the Court for approval of such fees, and the Referee comply with 22 NYCRR §36.4(d), before such fees can be paid; and it is further

ORDERED that Plaintiff is only authorized to pay the Referee fees in excess of \$1,100.00 upon receipt of an Order by the Court authorizing such payment; and it is further

ORDERED that the closing of title shall take place at the office of the Referee, or at such other location as the Referee shall determine, within forty-five (45) days after such sale unless otherwise stipulated by all parties. The Referee shall transfer title only to the successful bidder at the auction. Any delay or adjournment of the closing date beyond forty-five (45) days may be stipulated among the parties, with the Referee's consent, up to ninety (90) days from the date of sale, but any adjournments beyond ninety (90) days may be set only with the approval of this Court; and it is further

ORDERED that the Referee shall complete and submit the computation report within 30 days of the date of the Order of Reference; and it is further

ORDERED that Plaintiff shall make application for Judgment of Foreclosure and Sale no later than 60 days of the date of this Order; and it is further

ORDERED that failure to make application for Judgment of Foreclosure and Sale within sixty (60) days the date of this Order, shall result in the tolling of interest, and may result in dismissal; and it is further

ORDERED that this matter is scheduled for a status conference before the Court, Courtroom 401 (the soonest Wednesday after the 60 days is over) \_\_\_\_\_, 20\_\_, at 9:30 am. The purpose of this conference is to determine whether the Referee has completed and submitted the computation report and whether Plaintiff has filed an application for Judgment of Foreclosure and Sale. Appearances by the parties and appointed Referee are required unless: (1) the Referee has completed and submitted the computation report; and (2) Plaintiff has filed an application for Judgment of Foreclosure and Sale; and it is further

ORDERED that a copy of this Order with Notice of Entry shall be served upon the owner of the equity of redemption, any tenants named in this action, and any other party entitled to notice.

**B. Substitution of Referee.** Requests to substitute a Referee must be made by letter or email to the Court, NOT by formal motion.

**C. Judgment of Foreclosure and Sale.** All proposed Judgments of Foreclosure and Sale submitted to the Court must contain the following paragraphs:

ORDERED that pursuant to 22 NYCRR §36.1, the Referee shall be subject to Part 36 of the Rules of the Chief Judge; and it is further

ORDERED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR 36), including but not limited to, Section 36.2(d) ("Limitations on appointments based on

compensation"), and if the Referee is disqualified from receiving an appointment pursuant to the provisions of Part 36, the Referee shall notify the appointing judge forthwith; and it is further

ORDERED that by accepting this appointment, the Referee certifies he/she is familiar with the duties and responsibilities of a Referee and has experience in such area, and is fully capable and prepared to assume those duties and responsibilities which are commensurate with his/her abilities; and it is further

ORDERED that attorneys or support staff in the appointee's office may perform tasks under the appointee's direct supervision, unless otherwise directed by the Court, but all substantive appearances and reports must be performed and/or created by the appointee; and it is further

ORDERED, upon receipt of this Order and UCS Form 872 (Notice of Appointment and Certification of Compliance), the Referee shall complete, execute and return the UCS Form 872 to the Fiduciary Clerk; and it is further

ORDERED that the Referee is entitled to a fee of \$350.00 for the computation report; \$250.00 for any sale that is canceled on less than 24 hours' notice to the Referee; \$250.00 for any third-party closing and \$750.00 upon the sale; and it is further

ORDERED that if the Referee's fees are anticipated to exceed \$1,100.00, the Referee must apply [by letter] to the Court for approval of such fees, and the Referee comply with 22 NYCRR §36.4(d), before such fees can be paid; and it is further

ORDERED that Plaintiff is only authorized to pay the Referee fees in excess of \$1,100.00 upon receipt of an Order by the Court authorizing such payment; and it is further

ORDERED that the closing of title shall take place at the office of the Referee, or at such other location as the Referee shall determine, within forty-five (45) days after such sale unless otherwise stipulated by all parties. The Referee shall transfer title only to the successful bidder at the auction. Any delay or adjournment of the closing date beyond forty-five (45) days may be stipulated among the parties, with the Referee's consent, up to ninety (90) days from the date of sale, but any adjournments beyond ninety (90) days may be set only with the approval of this Court; and it is further

ORDERED that the Referee shall make a Report of Sale showing the disposition of the proceeds of the sale, accompanied by the vouchers of the persons to whom payments were made, and shall file the Report of Sale with the County Clerk of the County of Putnam within thirty (30) days after completing the sale and executing the proper conveyance to the purchaser; and it is further

ORDERED that the Referee shall deposit the surplus monies, if any, with the Putnam County Commissioner of Finance within five (5) days after the same shall be received and be ascertainable, to the credit of this action, to be withdrawn only on an Order of this Court signed by a Justice of this Court; and it is further

ORDERED that, on the date of the foreclosure sale, the Referee shall complete the Foreclosure Action Surplus Monies Form, file the completed Form with the Putnam County Clerk's office, and send a copy of the completed Form directly to the Chambers of the undersigned. A fillable version of this Form can be found on the court's website at: <http://www.nycourts.gov/FORMS/SurplusMoniesFormFillable.pdf>; and it is further

ORDERED that this matter is scheduled for a status conference before the Court, Courtroom 401 on \_\_\_\_\_, 20\_\_, at 9:30 am. The purpose of this conference is to determine whether the foreclosure sale has occurred as ordered, the outcome of such sale and to make such further orders as the Court deems necessary. Appearances by the parties and appointed Referee are required unless: 1) a Report of Sale and a completed Foreclosure Action Surplus Monies Form has been filed and received by the undersigned one week prior to this date, or 2) the Referee notifies the Court in writing one week prior to this date that the sale is not going to occur prior to this date and requests a new date based upon when he/she believes the sale will occur.

Said property is commonly known as (property address).\_\_\_\_\_

The legal description of the mortgaged property referred to herein is annexed hereto and made a part hereof as Schedule A.

**D. Amended New Auction Rules for the Ninth Judicial District.** Counsel and Referees are directed to familiarize themselves with the Amended New Auction Rules for the Ninth Judicial District.

Importantly, counsel and referees should be aware that the Referee shall not schedule any foreclosure sale without prior approval from the Clerk's Office. All auction sales shall be scheduled through the Clerk's office. The auction calendar shall be published on OCA or the Court's website. The Clerk's Office shall be solely responsible for scheduling, and the Referee shall coordinate the date and time of the auction with the Clerk's Office. If the auction is canceled for whatever reason, the Referee shall promptly notify the Clerk's Office.

## **VII. Matrimonial Actions**

**A. Preliminary Conferences.** The Court shall conduct a Preliminary Conference in accordance with 22 NYCRR §202.16(f). Counsel must be familiar and comply with the provisions of 22 NYCRR §202.16. Prior to the Preliminary Conference, the parties are required to file and exchange those documents set forth in 22 NYCRR §202.16 (f)(1), including Net Worth Statements, pay stubs, W-2 statements, tax returns and statements of accounts. In the

event either party fails to comply with this provision of the Part Rules, the Court may adjourn the conference and assess costs and fees against the non-compliant party. If both sides fail to comply, the Court may deem such non-compliance to be a withdrawal of the request for a conference and cancel the same, requiring payment of a second fee or the Court may treat the failure as a default under Court Rule §202.27(c), which authorizes the Court to strike pleadings or impose other sanctions.

The Court expects the parties to stipulate to grounds if the action has been brought under DRL §170(7). In the event the action is predicated on DRL §170(7), and Defendant wishes to contest grounds, trial of that issue will be held on the date scheduled for the Preliminary Conference or as soon thereafter as the Court's schedule allows. Counsel must have a substantive conference before the date set for the preliminary conference, either in person or telephonically, to determine the issues to be litigated. The scope of discovery shall be discussed so that the Court can determine if the requested items are necessary, and/or to set dates for compliance with the discovery demands.

Upon receipt of a request for a Preliminary Conference in a Matrimonial Action, the Part Clerk will, along with a letter advising of the date of the Preliminary Conference, mail a "Pendente Lite Stipulation and Order" and "STATUTORY CALCULATION FOR GUIDELINE AMOUNT OF TEMPORARY MAINTENANCE PURSUANT TO DOMESTIC RELATIONS LAW §236 Part B(5-a)(c)" to be completed by counsel and/or the parties and for use by the Court at the Preliminary Conference.

During the Preliminary Conference, the Court, shall ascertain whether the granting of a divorce is contested. In the event the parties agree that the granting of a divorce will not be contested, a stipulation to that effect shall be entered into no later than thirty (30) days following the conclusion of the Preliminary Conference. If a Complaint or Answer has not been served, the Stipulation shall provide that the parties waive and relinquish any right either may otherwise have to discontinue the action as of right. In the event that a party opposes the granting of a divorce, then the Court, shall adjourn the Preliminary Conference (except under DRL §170[7]), and: (1) if a Complaint or Answer has not yet been served, the Court (or Principal Law Clerk) shall provide a schedule for the service of all required pleadings; and (2) provide for the filing of a Note of Issue limited to the issue of divorce grounds, which filing date shall be no later than twenty (20) days after the service of the answer, or in the event an answer has been served, within twenty (20) days of the Preliminary Conference so that such trial may be promptly scheduled. In the event that a finding is made upon trial that divorce grounds exist, then the Court shall fix a date for the resumption of the Preliminary Conference.

During the Preliminary Conference, the Court shall provide appropriate direction to resolve any existing or anticipated disclosure disputes.

If a party or their counsel requests the appointment of an Attorney for the Child[ren], or requests the appointment of a Forensic Evaluator for issues relating to a child, the party or parties



making such request shall do so at the Preliminary Conference. The Court shall determine the application within ten (10) days of the Preliminary Conference, or at such other time as it appears necessary by written order.

**B. Appearance by Parties.** As noted above, parties to matrimonial actions shall appear at all matrimonial conferences, unless otherwise directed by the Court.

**C. Automatic Orders.** Counsel shall inform their clients of the Automatic Orders created by DRL §236(B)(2)(b) as soon as the attorney-client relationship is formed.

**D. Experts and Reports.** No attorney shall be appointed for a child nor a child forensic evaluation ordered, except upon order of the Court, which shall be made: (a) upon a motion made by Order to Show Cause pursuant to these Rules; (b) as a result of a conference; or (c) as a result of a conference before the Court. No expert shall be appointed except upon evaluation of the requests made by a party or parties, the parties' Net Worth Statements and most recent tax returns, if applicable, or any recommendation by the Court. Nothing contained herein shall be deemed to limit or restrict the authority of the Court, in accordance with the law, to make any appointment, it being the purpose of this rule to simplify the process and reduce cost, expense, and burden to the Court and to the parties.

**E. Child Custody/Access Forensic Evaluator.** In any case in which a Neutral Forensic Evaluator has been appointed by the Court to assist in custody or access determinations, the reports of evaluators appointed by the Court are confidential. These may be reviewed only by a party's attorney. The report(s) shall not be copied or disclosed to any person, except as permitted by this order or any other orders of this Court. Any attorney in the action, who wishes to receive a copy of the report, must first obtain permission from the Court and second, sign an affirmation that may be obtained from the Judge's Part Clerk. A party (client) may review the report with the Court's permission, but may not possess a copy of the report. Pro se litigants with the Court's permission may arrange directly with the Judge's Part Clerk to review the report at the Courthouse. No device capable of recording or photographing, is permitted in the room where the pro se litigant is reviewing the report. Notes may be taken. If any party seeks to retain an expert other than the Neutral Forensic Evaluator appointed by the Court, counsel may apply to the Court for permission to have the proposed expert receive a copy of the report. The expert will be required to sign a confidentiality agreement prior to receipt of the report.

Any counsel or party who violates these restrictions is subject to sanctions.

**F. Property Evaluation.** Counsel (including a party not represented by counsel) may stipulate at a Preliminary or other Conference to designate a specific person or firm to conduct a property evaluation and to the allocation of the expense thereof between the parties. If Counsel (including any party not represented by counsel) agree upon the evaluation as necessary and as to the allocation of expenses, but cannot agree upon a person or firm to conduct the evaluation, they may submit proposed names to the Court to order the designation. If the parties cannot agree

upon the necessity for the evaluation or upon the allocation of responsibility therefor, an application shall be made, on notice to all parties, to the Court who shall determine the application. In addition, the requesting party shall include the proposed apportionment of responsibility between the parties, including the reasons therefor. Such statement shall be served upon all adverse parties, and any party opposing the application, shall submit a statement, setting forth which part(s) of the application is opposed and the basis for such opposition. Nothing contained herein shall be deemed to limit or restrict the authority of the Court, in accordance with the law, to make any appointment, it being the purpose of this rule to simplify the process and reduce cost, expense, and burden to the Court and to the parties.

**G. Compliance Conference.** At the conclusion of the Preliminary Conference, the Court shall set a date for a Compliance Conference for the purpose of confirming that all disclosure is complete or will be completed timely. The date for the Compliance Conference shall be set in the Preliminary Conference Order, and, if the date is thereafter adjourned, the adjourned date shall be set forth in an Order. Any disclosure not completed in conformity with the Preliminary Conference Order, may be deemed waived or appropriate sanctions may be imposed against a party who failed to timely provide discovery.

**F. Motions.** All motions (including cross motions) in matrimonial actions MUST be made by Order To Show Cause. Both parties and counsel must appear on the return date of any motion brought, unless otherwise directed.

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 So-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.

**G. Pre-Trial Conference & Trials.** In all matrimonial actions scheduled for trial, no later than two (2) weeks prior to that trial, the Court is to be provided with: (a) Statements of Proposed Dispositions as required by 22 NYCRR § 202.16(h); (b) updated Net Worth Statements (with the latest available supporting documents, such as income tax returns, W-2's, brokerage and retirement plan statements); and (c) any forensic reports, appraisals or evaluations conducted in the matter. Failure to submit the required items may result in the Court determining the issues in favor of the party who complied with the Court Rules.

Unless the parties obtain an extension of time from the Court, at the Pre-Trial Conference, counsel must submit to the Court the following documents:

1. marked pleadings;

2. a fully executed Stipulation of relevant facts that are not in dispute. The Court expects that no matter how contentious the case, there will be at least some facts that are not in dispute (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, the approximate balance on any mortgage and the dates of creation of financial accounts and deferred compensation);

3. an exhibit list and pre-marked exhibits. Only those items that are received in evidence will be marked by the reporter. Copies of all exhibits intended to be offered must be presented to the Court in a ringed notebook with a table of contents, with Plaintiff's exhibits numbered, and Defendant's exhibits lettered in the order in which they are generally intended to be used, with external tabs separating each exhibit. Counsel are to exchange their notebooks with proposed exhibits at least seven (7) business days prior to the Pre-Trial Conference. Failure to timely submit an exhibit list and proposed exhibits may result in preclusion. At the Pre-Trial Conference, counsel either must stipulate to the admission of the exhibits to be offered by the adverse parties or state the ground of any objection to admission of any such exhibit. Counsel must be prepared to argue to the Court at the Pre-Trial Conference, the admissibility of any exhibits to which an objection is taken. Counsel are advised that the failure to include an exhibit in the exhibit list and/or to participate in the exhibit exchange provided for herein, may result in preclusion of that exhibit;

4. a List of Witnesses, including the address of each witness, the time anticipated for the witness' direct examination, and the general subject matter of his or her testimony. The failure to identify a witness may result in the preclusion of that witness' testimony.

5. a Joint Statement of Proposed Disposition. To the extent that the parties disagree on any item, Plaintiff's position should be set out first, followed by Defendant's position.

6. a Child Support Worksheet, if applicable; and

7. updated Statements of Net Worth.

All matrimonial trials and hearings will proceed day-to-day until conclusion. Counsel and/or the pro se parties shall, to the extent not restricted by an Order of Protection, meet and confer in good faith to identify exhibits which will be stipulated into evidence.

The Court may, in its discretion, determine that issues relating to child decision-making and/or parenting time are to be bifurcated from the economic issues, with the issues relating to child decision-making and/or parenting time tried first.

If the matrimonial action is scheduled for a **Virtual Bench Trial or Hearing**, the Court has a separate Virtual Hearing and Bench Trial Procedures & Protocols packet that will be

distributed to the attorneys and litigants prior to the Pre-Trial Conference.

**H. Divorce Papers.** In e-filed cases, the Court does not require working copies of the proposed Judgment of Divorce, Findings of Fact, and accompanying documents.

**I. Uncontested Matrimonial Actions.** The Court will review all uncontested matrimonial materials submitted on an as received basis. Counsel or self-represented parties will be advised of any deficiencies in the papers submitted by a form notice from the Court which identifies the defective document(s), describes the defect(s) and gives a date by which the defect(s) must be cured.

Where a Stipulation of Settlement or Settlement Agreement is being incorporated into the Judgment of Divorce, all the provisions of the Stipulation or Agreement must not be copied into the proposed Judgment of Divorce or the Findings of Fact and Conclusions of Law. Only those provisions required by the form proposed Judgment of Divorce and/or Findings of Fact and Conclusions of Law should be repeated from the Stipulation or Agreement. See the forms which are provided on the New York State Unified Court System website at [www.nycourts.gov/divorce/divorce\\_withchildrenunder21.shtml](http://www.nycourts.gov/divorce/divorce_withchildrenunder21.shtml).

Working Copies of an uncontested divorce packet are not required. Please submit a letter referencing the e-filed materials.

All deficiencies in the papers must be cured by the date in the Court notice or the matter will be dismissed (without prejudice to refile on proper papers). Counsel or a party seeking to vacate the dismissal shall submit a letter application to the Court requesting vacatur. The letter application must include a proposed order or stipulation vacating the order of dismissal and the document(s) which cure the deficiencies identified in the Court notice.

### **VIII. Trials and Hearings**

**A. Trial and Hearing Dates.** Scheduled trial and hearing dates will be adhered to except for the most extraordinary good cause shown. Clients, fact witnesses, experts of all kinds (including physicians) are to be timely advised of the date set for trial by the Court within a reasonable period of time of the setting of such date, to avoid last minute claims of unavailability. The parties, and their attorneys, are encouraged to videotape, in accordance with the applicable rules and statutes, any witness' testimony who may be unavailable for trial.

The Court will respect Counsel's and parties' actual scheduled, or anticipated, vacation plans when setting a trial date. Neither Counsel, nor a litigant, shall schedule a vacation which conflicts with a scheduled trial date after the Court has set that trial date.

**B. Subpoenas.** Counsel are referred to CPLR §§2306 and 2307 for guidance as to

subpoenas directed to municipal entities such as libraries, municipal corporations and their 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. Interpreters.** In the event a translator or interpreter is required at trial, Counsel shall notify the Part Clerk no later than the Pre-Trial Conference so that timely and appropriate arrangements can be made.

**D. Personal Injury/Bifurcation.** Trials of personal injury actions, except those involving claims of wrongful death or medical/dental malpractice, may be bifurcated in accordance with 22 NYCRR §202.42.

**E. Jury Selection.** Juries will be selected using "White's Rules" (*see* 22 NYCRR §202.33). Jurors will be designated; alternate jurors will be non-designated, unless the parties otherwise agree on the record prior to commencement of jury selection that the alternates will also be designated.

**F. Jury Contact.** Counsel are not to read from any pleading, part of a pleading, or other document during jury selection, nor may counsel refer to any specific amount of money being sought. Counsel are not to discuss any aspect of the law with the jury. Instruction on the law is for the Court alone.

In jury trials, the parties, and their attorneys, are to stand (if physically able) whenever the jury enters or leaves the courtroom. Non-party witnesses are not to be in the courtroom during the trial except when the witness is testifying.

**G. Reading of Exhibits.** If Counsel intends to use/read from any anticipated exhibit or item of demonstrative evidence during Opening Statements, Counsel is to advise the Court of such intention prior to commencement of jury selection.

**H. Objections.** Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating "Objection," and no more than a one- or two-word statement as to the basis for the objection. Speaking Objections are prohibited. If the Court requires further explanation of the Objection, the Court will ask for further explanation or invite Counsel to approach at side bar.

**I. Use of Videotapes.** If a party intends to use a videotape at trial, that party shall submit a copy of the videotape (or other video recording) and transcript of the proceedings, if applicable, to the Court at least two weeks prior to the scheduled trial date in order to allow the Court to rule

on the admissibility of the videotape (or other video recording), and any Objections made during the video recording.

**J. Displays & Monitors.** The Court provides no electronic support. Specifically, counsel must bring all equipment it plans to utilize during trial (i.e., screens, monitors, etc.).

**IX. Settled and Discontinued Cases**

(a) If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the Court by submission of a copy of the stipulation or a letter to the chambers via email. This notification shall be made in addition to the filing of a stipulation with the county clerk or electronically.

(b) Counsel, including self-represented litigants, are under a continuing obligation to notify the Court as promptly as possible in the event that an action is settled, discontinued or otherwise disposed of or if a case or motion has become wholly or partially moot, or if a party has died or filed a petition in bankruptcy. Such notification shall be made in writing (*see* Section 202.28 of the Uniform Civil Rules for the Supreme Court and the County Court).

**X. Substitution/Discharge of Attorneys**

Except in cases where an attorney is replaced by another attorney on consent, any change or withdrawal of counsel must be approved by the Court on a motion, brought by Order to Show Cause pursuant to CPLR §321.

The Court does not recognize the purported withdrawal by Counsel where such withdrawal would result in a party becoming pro se (except where the party is an attorney) by the filing of a "Consent to Change Attorney" Form. The use of a "Consent to Change Attorney" Form to withdraw where a party becomes pro se is specifically prohibited. Any attempt to do so will not be recognized by the Court.

**XI. Civility**

This Court values civility and courteousness. Parties are encouraged to refrain from histrionics, showmanship, gamesmanship and discourteousness. The Court expects that the Judge, his staff, the Part Clerk, the Court Reporter, the Court Officers and all attorneys and parties will be treated respectfully. The Court will not tolerate discourteous behavior (i.e., constant interruptions, outbursts or ad hominem attacks).

These Rules are subject to revision or modification by the Court.