

**HON. JEFFREY C. MARTIN  
ACTING SUPREME COURT JUSTICE  
50 MARKET STREET  
POUGHKEEPSIE, NY 12601**

**INDIVIDUAL PART RULES**

Effective January, 2023

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**Familiarity with the Uniform Rules for the Supreme Court and the County Court (22 NYCRR §202) (hereinafter "Uniform Rules") is expected. However, if there is any conflict between the Part Rules and the Uniform Rules, these Part Rules control.**

**COMMUNICATIONS WITH THE COURT:**

a. Correspondence: All correspondence to the Court must be brief, concise and contain the full case title and Index Number of the action. Correspondence to the Court shall, without exception, be copied to all other counsel (or self-represented litigant(s)) simultaneously with transmittal to the Court. Correspondence between counsel and/or self-represented parties shall not be copied to the Court. The Court does **not** permit litigation by way of letter correspondence to the Court, or by way of being copied with letter correspondence by and between counsel. Any such submission shall be rejected by the Court without further action or consideration. **Correspondence to the Court shall not be e-filed.**

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. E-Mail: E-mails to the Court's staff is the preferred method of communication. All e-mails should be brief and concise, stating the relief or action requested to be taken by the Court.

d. Facsimiles: See Uniform Rule §202.5-a. 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 the Court staff.

e. E-Courts: While E-Courts can be useful tool, it is not always accurate. In the event of a conflict between the appearance date provided by the Court and E-Courts, the parties should appear on the date and time provided by the Court.

**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.

**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.

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 of the parties with:

- (1) Matrimonial Order Directing Preliminary Conference; and
- (2) 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. In the event either party fails to comply with the provision of the Part Rules, the Court may adjourn the conference and assess costs and fees against the party who failed to comply. 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 same, requiring payment of a second fee or the Court may treat the failure as a default under Court Rule §202.27(c) authorizing the Court to strike pleadings or impose other sanctions.

**Counsel must have substantive communications 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 at the Preliminary Conference so that the Court can determine if the requested items are necessary and/or set dates for compliance with the demands.

**COMPLIANCE CONFERENCE:**

a. **General Rules:** Given the Court's limited Court time, adjournments will only be granted in extenuating circumstances.

b. **Who Must Appear:** Counsel and parties appearing for a scheduled conference must be fully familiar with the action on which they appear and authorized to enter into binding agreements on all aspects of the case. Settlement proposals must be in writing and exchanged at least two (2) days before any settlement conference.

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

(1) At the compliance conference, the Court will ensure that discovery is proceeding as scheduled.

(2) 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 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. 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 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 without having first requested the Court's intervention by letter as provided for herein.

c. Child Custody/Access Forensic Evaluators: In any case in which a neutral forensic evaluator has been appointed by the Court to assist in custody or access determinations, the report of evaluators appointed by the Court are **confidential**. 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 who wishes to receive a copy of the report must first sign an affirmation that may be obtained from the Judge's Part Clerk or Confidential Secretary. A party may review the report, but may not possess a copy of the report. Self-represented litigants may make arrangements 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 self-represented 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.

d. Evaluations: 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 person 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 and curriculum vitae to the Court to order the designation. If the parties cannot agree upon the necessity of the evaluation or upon the allocation of responsibility therefor, an application shall be made, on notice to all parties, to the Court. The requesting party shall include a proposed apportionment of responsibility for costs between the parties, including the reasons therefor. Such statement shall be served upon all adverse parties, and any party opposing the application, whole or in part, 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.

**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 3001 (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:**

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

### **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 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 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.
- 5. Prior to the time scheduled for the trial to commence, counsel shall:
  - (i) premark all exhibits; and
  - (ii) file a brief concerning any unusual issue(s) counsel believes may arise at trial (motions in limine shall be made at least thirty (30) days before trial when possible).
- 6. The plaintiff shall file and bring to the trial a copy of each of the following:
  - (i) marked pleadings including verified bill of particulars.

**MOTIONS: (Except for emergencies or extraordinary circumstances, the details of which must be included in the motion papers, NO MOTIONS SHALL BE SUBMITTED unless and until the details which are intended to be included in the motion are FIRST discussed in a telephonic or in person conference with the Principal Court Attorney or with the Judge.)**

- a. Motions are returnable on any day of the week. There will be no appearances unless specifically stated by the Court.
- b. Any motion which does not include a statement of net worth and calculations showing the manner in which the amount of any support sought has been calculated will be denied.
- c. Motion papers must be accompanied by proof of payment to the County Clerk of all required fees.
- d. All affirmations, affidavits and memoranda of law must contain numbered pages.
- e. All citations must be to an official state reporter, if available.
- f. The Court does not accept sur-reply papers or correspondence on motions, nor any papers filed after the final submission date of the motion.
- g. All motions will be decided by submission and personal appearances on the return date are not required unless the Court specifically directs oral argument.
- h. Summary Judgment or other dispositive motions must be made within 60 days after filing the note of issue.
- i. Any motions seeking to exclude potential evidence shall be made in writing and shall be returnable at least 30 days in advance of trial.



j. NO ADJOURNMENTS on a motion will be granted with a return date within thirty (30) days prior to the date of trial.(k) Counsel shall immediately notify the court when it becomes unnecessary to decide a motion.

**EXPERT TESTIMONY PRECLUSION:**

a. Any motion by a party to preclude or limit expert testimony under the expert disclosure part of this order or pursuant to CPLR 3103(d) must be made as soon as practicable.

b. Where a party's summary judgment motion is or will be based in whole or in part upon the granting of a motion directed at precluding or limiting expert testimony made pursuant to this part of this order, the motions' return date shall be the same.

**MOTION IN LIMINE:** Any applications addressing the preclusion of evidence, testimony or other trial related matters shall be brought to the attention of the court immediately upon counsel becoming aware of such matter to be addressed, it being the intent to avoid applications made on the eve of, or during trial of a matter. Failure to bring the matter before the court in a timely fashion may result in summary denial of such application.

**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](http://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@nycourt.gov](mailto:efile@nycourt.gov)

(3) specific questions regarding to local procedures should be address to the Civil Calendar Clerk's Office at (845) 431-1720.

b. **Working copies:** This Part requires one working copy of each motion submission, including all exhibits and proposed orders (see Uniform Rule §202.5-b(d) [4]). The NYSCEF Confirmation Notice generated when the motion is e-filed must be firmly attached to the front page of the motion submission. Working copies that do not include the NYSCEF Confirmation Notice may be rejected. Working copies shall be received by Chambers on or before the return date or notice of settlement date.

c. 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.

Any application for ex parte “emergency relief” must be accompanied by a written certification of counsel as to the efforts, if any, which have been made to give written or oral notice to the opposing party, or that party’s attorney, if represented, and the attorney for child, if any, or a statement supporting a claim that notice should not be required. Except in an extreme emergency, an ex parte application will not be entertained, absent notice to the opposing party, or counsel if represented, and the attorney for child, if any.

**EXPERT TESTIMONY PRECLUSION:**

a. Any motion by a party to preclude or limit expert testimony under the expert disclosure part of this order or pursuant to CPLR 3103(d) must be made as soon as practicable.

b. Where a party’s summary judgment motion is or will be based in whole or in part upon the granting of a motion directed at precluding or limiting expert testimony made pursuant to this part of this order, the motions’ return date shall be the same.

**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 thereon.

b. Adjournments on motions and conferences may be requested on consent of opposing counsel. After obtaining such consent, the requesting party must fax the adjournment request to 845-483-8452 to obtain a new date. A REQUEST TO ADJOURN A CONFERENCE MUST BE EMAILED TO THE COURT’S PRINCIPAL COURT ATTORNEY AT [DLOIACON@NYCOURTS.GOV](mailto:DLOIACON@NYCOURTS.GOV) AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED APPEARANCE. NO ADJOURNMENTS WILL BE GIVEN ON APPEARANCES THAT ARE SCHEDULED TO BE ON THE RECORD. 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 good cause is shown upon written application made to and approved by the Court

**WHEN REQUESTING AN ADJOURNMENT OF A CONFERENCE OR MOTION, THE LETTER REQUEST SHALL INCLUDE THE CURRENT DATE OF ANY MOTION RETURNABLE OR ANY CONFERENCE SCHEDULED.**

**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, 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.

**JUDGMENT OF DIVORCE / SETTLEMENT AGREEMENTS:**

Please ensure that all submissions comply with the relevant law. For example, if the agreement deviates in any way from the Child Support Standards Act, the agreement must contain specific recitations. (see DRL §240 (1-b)(h)). There are divorce forms on the Office of Court Administration homepage which contain all necessary paragraphs.

**SETTLED AND DISCONTINUED CASES:**

Counsel shall immediately notify the Court of a case disposition, in writing. Defendant is directed to comply with 22 NYCRR §202.29.