



HON. ROLF M. THORSEN

Justice of the Supreme Court
County of Westchester
Matrimonial Part

INDIVIDUAL PART RULES

Effective May 1, 2024

Court Information:

Address: Westchester County Courthouse
111 Martin Luther King, Jr. Blvd.
White Plains, New York 10601

Courtroom: 1002

Telephone: Chambers (914) 824-5790
Part Clerk (914) 824-5396

Email: 9jd-JudgeThorsen@nycourts.gov

NOTE: Communications via NYSCEF are preferred.

Court Staff:

Principal Court Attorney: Stephanie A. Small, Esq.
Assistant Law Clerk: Alison McCaffrey, Esq.
Part Clerk: Justine Guardiola

These Rules supplement and, where inconsistent with, supersede the Uniform Civil Rules of the Supreme and the County Court, 22 NYCRR § 202.1, et seq., and the amendments thereto, which became effective February 1, 2021, and the Westchester Supreme Court Matrimonial Part Operational Rules, Effective November 1, 2022, and as thereafter amended.

1. **Scheduling and Calendar Matters:**

- a. Any inquiries regarding scheduling and calendar matters should be directed to the Part Clerk, Justine Guardiola, via email at jguardio@nycourts.gov.
- b. **Requests to Adjourn an Appearance/Motion:** A request for an adjournment of an appearance or a motion shall be made in writing at least thirty-six (36) hours prior to the appearance or motion deadline, on notice to the other parties and shall be filed on NYSCEF. If the request is not made at least thirty-six (36) hours prior to the appearance or motion deadline, the parties must appear on the appearance date or motion return date. Any party seeking an adjournment must attempt to obtain consent from all other parties in the action. Applications for adjournments must state: (1) the appearance/motion date, (2) three proposed adjourned dates/times on consent, (3) the reason for the request, (4) the number of prior adjournments, and (5) whether the opposing party(ies) consent(s) or object(s) to the request. **Absent explicit approval from the Court in writing, the adjournment is not deemed granted, even if the adjournment request is on consent.** To the extent that counsel seeks an adjournment based upon engagement of counsel, compliance with the Rules of the Chief Administrative Judge Part 125 shall be complied with, including, but not limited to, the filing of an Affirmation of Engagement.
- c. **Requests to Adjourn Hearings/Trials:** A request for an adjournment of a hearing/trial is not permitted except as provided in 22 NYCRR § 125.1.

2. **Communications with the Court:**

- a. **Letters:** Communications with the Court shall be in writing and e-filed, with copies simultaneously delivered to all counsel or self-represented parties. All correspondence sent to the Court must bear the full title and index number of the action, indicate that all counsel or self-represented parties were copied, and state the relief sought or action requested to be taken by the Court. The Court shall not be copied on correspondence between counsel and/or self-represented litigants, unless the Court so directs.
- b. **Telephone Calls and E-mails:** Telephone calls and e-mails to Chambers are permitted only in situations requiring immediate attention that cannot otherwise be obtained by written correspondence. Any *ex parte* communication is strictly prohibited. Self-represented parties must direct all communications through the Part Clerk.
- c. **Fax Transmissions:** The Court does not accept correspondence or legal papers of any kind by fax transmission.
- d. **Notification of Settlements and Discontinuances:** If an action or motion is settled, discontinued, withdrawn, or disposed in any manner, counsel must immediately

notify the Court by uploading a letter to NYSCEF. As soon as is practicable, the parties shall e-file a fully executed stipulation of settlement or discontinuance.

3. **E-Filing:**

- a. All parties in matters subject to E-Filing rules are expected to be familiar with the Westchester County Joint E-Filing Protocols. All documents in efile cases must be filed on NYSCEF. All submissions to the Court, including letters, proposed orders, and proposed judgments must be filed on NYSCEF.
- b. General questions about E-Filing Rules should be addressed to the E-Filing Resource Center at efile@courts.state.ny.us or (646) 386-2022.
- c. The Court does not require working copies of documents; all documents are to be electronically filed.
- d. Uploading Documents:
 - i. Documents shall be properly identified.
 - ii. Exhibits shall be uploaded separately and properly identified. (For example, an Affirmation shall be uploaded and identified as such and any exhibits referenced therein shall be uploaded as separate documents and NOT contained within the uploaded affirmation).
 - iii. All social security numbers contained in any documents uploaded onto NYSCEF shall be set forth in the following format: xxx-xx-____.

4. **Discovery Disputes:**

- a. Counsel (or self-represented litigants) who believes that discovery is not being conducted in accordance with the Preliminary Conference Order (or other Order) shall discuss, in good faith as required by the Uniform Rule § 202.7, the claimed non-compliance with counsel or the self-represented litigant who is allegedly non-compliant with the Court Order. A pro forma letter does not constitute a good faith effort. There must be actual, substantive communication between counsel (and/or the self-represented litigant), either telephonically or in writing, regarding the claimed non-compliance. The parties are not to copy the Court on correspondence between counsel concerning discovery issues, unless specifically requested by the Court to do so. Similarly, any scheduling issues for depositions, medical examinations, appraisals, etc., must be addressed by counsel, prior to seeking the Court's intervention.

5. **Motions:**

- a. **General:** All motions shall be made in accordance with Section C (Motions) of the Matrimonial Part Operational Rules. Absent permission from the Court, sur-reply and post-submission papers are not permitted. All motion papers and accompanying documents must be uploaded to NYSCEF and properly identify the motion sequence number.
- b. **Pre-Motion Conference:** Pursuant to Section C.3. (Motions) of the Matrimonial Part Operational Rules, any party seeking to make a motion must file a written letter request for a pre-motion conference on notice to all other parties and upload the letter to NYSCEF. The letter request should state the basis of the anticipated motion and may not exceed two (2) pages. All parties so served may serve and file a letter response, not to exceed two (2) pages, via NYSCEF within one (1) business day from service of the notification letter
- c. **Return Date:** Motions shall be made returnable on Friday. Personal appearances are not required on the return date unless directed by the Court.
- d. **Oral Argument:** All motions are by submission only unless otherwise advised by the Court. Parties may request oral argument by stating “Oral Argument Requested” on the first page of the papers submitted.
- e. **Orders to Show Cause:** An Order to Show Cause shall be brought only when there is genuine emergency, a stay is required, or the application is being filed post-judgment. Proposed Orders to Show Cause submitted for signature must be uploaded to NYSCEF.
- f. Any application regarding child support must be accompanied by a completed Child Support Worksheet and any application regarding spousal support must be accompanied by a completed Spousal Support Worksheet.

6. **Matrimonial Conferences:**

- a. Counsel and parties must appear in-person at all conferences. Request to appear virtually or telephonically will only be granted in exceptional circumstances or as an accommodation. A request for a virtual or telephonic appearance shall be made in writing at least thirty-six (36) hours prior to the appearance on notice to the other parties and filed on NYSCEF, and must state clearly the basis of such request.
- b. Parties must comply with Section B (Pre-Note of Issue Court Conferences) of the Matrimonial Part Operational Rules with respect to the preliminary conference, compliance conferences, and settlement conferences.
- c. **Preliminary Conference:** Pursuant to Section B.I.2. of the Matrimonial Part Operational Rules, at least ten (10) days prior to the scheduled preliminary

conference, each party must file on notice to all parties via NYSCEF (a) the retainer agreement; (b) statement of net worth; and (c) the most recent paystub and income tax return. Parties must submit the proposed Preliminary Conference Order, at least two (2) days prior to the date of the scheduled preliminary conference via NYSCEF.

7. **Alternative Dispute Resolution:**

a. **Presumptive Mediation Cases:** The following types of cases are subject to Presumptive Mediation in the Westchester County Supreme Court and will be assigned by the Court to a mediator at the time of the Preliminary Conference:

- i. ***Matrimonial*** – Cases involving W-2 employees with issues of maintenance, child support and equitable distribution. Cases where custody is resolved may be included.
- ii. ***Post Judgment*** – All cases.

b. **Court Rules** – Counsel and self-represented litigants are directed to review and be familiar with the following alternative dispute resolution rules for the 9th Judicial District and Westchester County:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/ADR/rules/DISTRICT-WIDE-RULES.pdf>

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/ADR/rules/Westchester-Matrimonial-Rules.pdf>

c. **Non-Presumptive Mediation Cases** – At any time during a litigation, Counsel and/or self-represented litigants may request an Order of Reference from the Court, appointing a mediator to assist the parties in reaching a resolution. While the parties may select any mediator, a 9th Judicial District Mediator Roster is available at: <https://www.nycourts.gov/courts/9jd/ADR.shtml#rom>

8. **Matrimonial Hearings and Trials:**

a. **Interpreters, Special Services, and Technology:** Counsel and any self-represented party must notify the Part Clerk immediately upon being advised of a court appearance, hearing, or trial if an interpreter, technological equipment (e.g., television, monitor), or any special services are required.

b. **Virtual Evidence Courtroom:** A Virtual Evidence Courtroom (VEC) will be set up in NYSCEF for each trial/hearing. Instructions for uploading evidence may be found here: <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EvidenceSubmission.pdf>

- i. All evidence must be uploaded to the VEC ten (10) days prior to the commencement of trial.

- ii. Each party is limited to fifteen (15) exhibits, unless otherwise approved by the Court, and each exhibit must be uploaded separately using the VEC.
 - iii. All objections to evidence must be uploaded seven (7) days prior to the commencement of trial.
 - iv. All objections will be ruled upon prior to the commencement of trial.
 - v. VEC evidence that has not been objected to will be admitted into evidence if offered for evidence at trial.
- c. **Motions in limine**: All motions *in limine* shall be uploaded to NYSCEF no later than seven (7) days prior to the scheduled trial date. Failure to bring the issue before the Court in a timely manner may result in summary denial of such application.
- d. **Pre-Trial/Pre-Hearing**: Pursuant to Section G.7. (Trials) of the Matrimonial Part Operational Rules, parties must submit the following items as directed below, via NYSCEF, no later than seven (7) days prior to the commencement of trial/hearing:
 - i. Marked Pleadings and Previous Judicial Decisions (if applicable) .
 - ii. Updated Statements of Net Worth, Child Support Worksheet (if applicable), and Spousal Guidelines Worksheet (if applicable).
 - iii. Exhibits and Objections: see “b. Virtual Evidence Courtroom” supra.
 - iv. Witness List: Counsel for the parties must confer regarding the witnesses to be called and the order that they will be called.
 - v. Joint Stipulation as to Facts and Issues: Counsel for the parties must confer and make a good faith effort to stipulate as to undisputed material facts (e.g., the date of marriage, the names and birth dates of children, the location of any residential real estate and the approximate date of acquisition, approximate cost and the approximate balance on any mortgage), issues/claims that have been resolved and/or withdrawn, as well as issues/claims that remain to be tried.
 - vi. Joint Statement of Proposed Disposition: To the extent that the parties disagree on any item, the plaintiff’s position should be set out first, followed by the defendant’s position. The Court will not accept separate statements of proposed disposition without prior written approval.
- e. **Post-Trial**: In accordance with the schedule set by the Court, the parties must submit and upload to NYSCEF: a transcript of the proceeding, closing memoranda, and any other document required to complete the record for purposes of any appeal.

9. **Submission of Findings of Fact/Conclusions of Law and Judgment of Divorce:**
 - a. The Findings of Fact/Conclusions of Law and Judgment of Divorce should be in the format found on the NYS UCS website.
 - b. **PROOFREAD YOUR SUBMISSIONS! Ensure that the provisions set forth accurately reflect the parties' agreement.**
 - c. Format your documents to ensure that the date and signature line is not the only content on the final page.
 - d. Social security numbers should be set forth in the following format: xxx-xx-_____.

10. **Subpoenas:** This Court does not generally sign "So Ordered" subpoenas as there is no rule, statute or other authority that requires same. Where a subpoena is addressed to "a department or bureau of a municipal corporation or of the state," the Court will not "So Order" the subpoena absent compliance with the CPLR. CPLR Section 2307 requires the issuance of a subpoena on "a department or bureau of a municipal corporation or of the state" be done by motion on at least one day's notice to the agency and to the adverse party. See, Connors, Patrick M., McKinney's Practice Commentaries CPLR §2307, p. 131 (2010).