

**HON. THOMAS P. ZUGIBE**  
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New City, NY 10956

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**PART RULES<sup>1</sup>**

\*Effective January 1, 2023

**Court Communications**

**Correspondence:** All correspondence to the Court must bear the full title and index number of the action, and state that a true copy of the correspondence was sent to all other counsel (or self-represented litigant(s)) simultaneously with transmittal to the Court.

All correspondence to chambers should copy the Part Clerk. Correspondence between counsel and/or self-represented parties shall not be copied to the Court.

**Telephone Calls:** Except as set forth below, telephone calls to the Court staff are permitted only in situations requiring immediate/emergency attention that cannot otherwise be obtained by correspondence.

**Fax Transmissions:** Unless specifically approved by the Court in advance in a particular case, the Court does not accept legal papers of any kind by fax transmission.

**E-filing Rules and Protocol**

Counsel and self-represented litigants shall familiarize themselves with both the statewide E-Filing Rules<sup>2</sup> (22 NYCRR §§ 202.5-b and 202.5bb) and the Rockland County E-Filing Protocol.

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<sup>1</sup> These Rules supplement and, where inconsistent with, supersede the Uniform Civil Rules for the Supreme and the County Court, 22 NYCRR § 202.1, et seq., and the amendments thereto, which became effective February 1, 2021.

<sup>2</sup> [www.nycourts.gov/efile](http://www.nycourts.gov/efile).

General questions about e-filing should be addressed to the E-Filing Resource Center.<sup>3</sup> Specific questions about local procedures should be addressed to the Chief Clerk's Office.<sup>4</sup>

All documents in mandatory e-filed cases, except documents subject to the opt-out provision of 22 NYCRR § 202.5-bb, 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 must be electronically filed.

This part does not require working copies. Should the Court require them, counsel will be notified. Hard copy submissions in e-filed cases will be rejected unless they bear the Notice of Hard Copy Submission - E-Filed Case required by 22 NYCRR 202.5-b(d)(1)(b).

## **Adjournments**

A request to adjourn a conference must be made in writing, by email to either the Principal or Assistant law clerk, with the Part Clerk copied, at least forty-eight (48) hours in advance of the scheduled conference.<sup>5</sup>

All applications for adjournment must set forth: (1) the reason for the adjournment; (2) whether the opposing party consents or objects to the application; (3) the length of the adjournment sought or, if on consent, a date all parties are available; and (4) the number of prior adjournment requests and corresponding dates. All adjournment requests must be made on notice to all counsel and self-represented parties.

Opposing counsel or self-represented party may succinctly provide their reasons for objecting to the requested adjournment if opposing counsel believes that his/her position has been stated incorrectly. No further communication concerning the request for adjournment will be permitted. The request and the response are not to be used to advocate a position on the substantive dispute.

If the request is granted, the moving party must inform all other parties in writing. The parties should not assume that the request has been granted unless specifically advised by the Court.

## **Conferences**

The Court's calendar will be called at 9:30 a.m. daily with the exception of conferences that are assigned a specific time. Counsel and self-represented parties are expected to appear for all Court appearances on time even if those appearances are virtual. If unable to appear on time, contact opposing counsel and notify the Part Clerk by both email and telephone as soon as possible.

Counsel scheduled to appear before this Court and another Court must communicate that fact to the Part Clerk prior to the date of appearance so that counsel's conflicting appearances can be

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<sup>3</sup> (646) 386-3033 or [efile@nycourts.gov](mailto:efile@nycourts.gov).

<sup>4</sup> (845) 483-8310.

<sup>5</sup> If adequate reason given, exceptions for emergencies are allowed.

reconciled. Counsel are not to rely on opposing counsel to advise the Court of their conflict when the case is called. If counsel fails to comply, the Court may proceed in that counsel's absence.

All questions about the status of your conference, such as whether it is in-person or virtual, should be emailed to the Part Clerk.

Only counsel (or self-represented parties) who are fully familiar with a case and authorized to enter into binding agreements on all aspects of the case are to appear for conferences.<sup>6</sup> In matrimonial actions, litigants must appear with their counsel for all conferences unless the Court excuses such appearance.

**Preliminary Conferences:** The Court will schedule a Preliminary Conference within forty-five (45) days after a Request for Judicial Intervention (RJI) has been filed on a matter. The requesting party will be notified by the Part Clerk as to the date and time. The requesting party must advise all other parties of such date and time.

All counsel and self-represented 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.

In all matters except contested matrimonial actions, if both parties are represented by Counsel, physical appearance at the preliminary conference will be waived if a completed Proposed Preliminary Conference Order signed by counsel for all parties is received by the Court no later than forty-eight (48) hours prior to the scheduled conference date.<sup>7</sup>

Parties who have a discovery dispute are not to wait until the compliance conference to bring such dispute to the Court's attention. Pursuant to 22 NYCRR 202.7, if counsel believes discovery is not being conducted accordingly, they must pursue meaningful dialogue with opposing counsel.<sup>8</sup> Parties are not to make any motion concerning discovery without first attempting to resolve the issue. If counsel cannot resolve the issue, then counsel who finds fault is to contact the Court, stating both the nature of the dispute and failed efforts made to resolve it. The Court will resolve the issue either by letter or by scheduling a conference. No discovery motion is to be made by any party unless authorized or directed by the Court.

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<sup>6</sup> This means that counsel for the plaintiff(s) must be prepared to make a settlement demand and counsel for the defendant(s) must be prepared to respond to the demand. And, where a party is being indemnified by an insurer, appearing counsel must be able to advise the Court of the applicable policy limits afforded to the defendant as well as the name, claim number, and phone number of the adjuster assigned to the matter.

<sup>7</sup> Counsel are generally referred to 22 NYCRR § 202.12(c) concerning the conduct of the preliminary conference and the matters to be considered. Counsel in medical, dental, and pediatric malpractice actions are referred to 22 NYCRR § 202.56(b) and counsel in matrimonial actions are referred to 22 NYCRR § 202.16 and DRL § 236(B)(4) for other specific requirements in such cases.

<sup>8</sup> Where an order of protection prohibits one party from contacting another party, the party who finds fault shall contact the Assistant Court Attorney without contacting the opposing party.

**Compliance Conferences:** A compliance conference will be scheduled after the date by which disclosure was to be completed. A settlement conference may also be conducted at the same time. If the matter is ready for trial, the Court will direct that a Note of Issue be filed.

**Settlement Conferences:** Counsel attending any settlement conferences scheduled by the Court must have the appropriate authority to discuss factual and legal issues presented by the litigation, settlement demands or offers, witness scheduling, and trial procedure.

In an effort to foster open settlement discussions, the Court may meet with counsel separately during the discussions. Unless an objection is stated, counsel is presumed to have consented to the Court doing so.

**Pre-Trial Conferences:** A pre-trial conference with all counsel and self-represented parties will be conducted before the commencement of jury selection or of the non-jury trial. If not previously provided, on or before the pre-trial conference, counsel and self-represented parties must provide the Court and opposing counsel or self-represented party with the following:

- (1) Marked pleadings in accordance with CPLR 4012, including copies of any exhibits incorporated by reference in the pleadings;
- (2) A copy of all Bills of Particulars (including Supplemental and/or Amended Bills of Particulars);
- (3) A copy of all medical narrative reports exchanged by the parties;
- (4) A copy of all expert disclosures served pursuant to CPLR 3101(d);
- (5) A list of probable trial witnesses;
- (6) A copy of all prior decisions or orders on motions issued in the case;
- (7) Memoranda of law concerning any procedural, evidentiary, or other legal issue which the parties anticipate the Court will need to determine;
- (8) Requests to charge
  - a. A complete list of requested jury charges drawn from the Pattern Jury Instructions (“PJI”) of the then-current year. Requests to charge must be submitted in writing and by email in Microsoft Word format to either the Court’s Principal or Assistant Court Attorney. Where the requested charge comes directly from the PJI, only the title, section, and page numbers need to be provided. Where deviations from, or additions to the PJI are requested, the full text of such requests highlighting the deviations must be submitted together with any supporting legal authority;
- (9) Proposed verdict sheet
  - b. A proposed verdict sheet, jointly prepared by all parties, typewritten and in final form for presentation to the jury shall be submitted. If an agreement cannot be reached between and among the parties as to the questions to be posed to the jury prior to the pre-trial conference following a diligent and good faith effort, 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 Microsoft Word format to either the Court’s Principal or Assistant Court Attorneys;
  - c. Written motions *in limine* must be made returnable on the day of the pre-trial conference. Such motions must be made no less than seven (7) days’ notice to opposing counsel and/or self-represented parties. It is the Court’s intention to decide such motions prior to commencement of jury selection.

## Motion Practice

Parties may move by notice of motion or order to show cause, depending on the exigency of the relief sought.<sup>9</sup> All motions and cross-motions in matrimonial actions and applications by counsel seeking to be relieved<sup>10</sup> must be made by order to show cause.<sup>11</sup> Any proposed order to show cause shall include a space for the Court to set forth a briefing schedule for opposition papers, reply papers, and, if necessary, an appearance date.

Except in e-filed cases, proposed orders to show cause submitted for consideration must include an email address to permit a conformed copy of the signed orders to be sent to the movant. Written applications by notice of motion (or notice of petition) must be made returnable on any Friday the Court is in session.

Pursuant to 22 NYCRR 202.8(b)(a)(i-ii), absent express permission obtained in advance from the Court, affidavits, affirmations, briefs and memoranda of law in chief shall be limited to 7,000 words each. Reply affidavits, affirmations, and memoranda shall be no more than 4,200 words and shall not contain any arguments that do not respond or relate to those made in the memoranda in chief. Papers exceeding these limitations may not be considered by, and may be rejected by the Court. Sur-reply papers are not permitted except by express permission.

No oral argument will be scheduled unless directed by the Court. Parties seeking oral argument can request it by writing “Oral Argument Requested” above the index number on the first page of the submitted papers. Parties will be notified if the Court grants such request.

Except by the Court’s permission, all motion papers and proposed orders to show cause must be typed (12-point), double-spaced, securely bound, and fully legible. All exhibits must be labeled with external tab markings. Plaintiffs shall designate exhibits by number, and defendants shall designate exhibits by letter. Exhibit numbering or lettering may not begin anew for subsequent papers submitted by the same party.

For all e-filed motions, all exhibits must be separately e-filed, and may not be submitted as one collective exhibit. Exhibits failing to comply may not be considered by, and may be rejected by the Court. Deposition/examination-before-trial transcripts included as exhibits must be single, front-faced pages only. Parties may submit four-per-page minuscrites.

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<sup>9</sup> All papers must comply with NYCRR §202.8-b.

<sup>10</sup> The Court does not recognize the purported withdrawal by counsel where such withdrawal would result in a party becoming self-represented (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” to withdraw where a party becomes self-represented is specifically prohibited.

<sup>11</sup> This Court does not accept substitution of counsel forms from attorneys to pro-se litigations.

**Motions for Summary Judgment:** Must be made within sixty (60) days of the filing of the note of issue unless the Court has said otherwise. Service of a notice of motion under rule 3211, 3212, or section 3213 stays disclosure until determination of the motion unless the court orders otherwise.

Unsigned deposition transcripts will not be considered on motions for summary judgment unless it is demonstrated that the transcript was forwarded to the deponent for his/her review and signature in compliance with CPLR 3116(a).

Unless we specifically request it, we do not require the submission of Statements of Material Fact.

**Temporary Restraining Orders:** Absent circumstances in which significant prejudice (said prejudice set forth in detail in a supporting affidavit/affirmation) will result, opposing counsel are to be advised at least twenty-four (24) hours in advance of the date and time that any proposed order to show cause which includes a request for a temporary restraining order is being presented to the Court. The Court has the discretion to dispense with the twenty-four (24) hour notice requirement.

If there has been no appearance by opposing counsel, the adverse party is to be provided with notice of the intention to submit a proposed order to show cause as provided by 22 NYCRR § 202.7 and is to be advised that he/she has the right to be heard on the application.

**Judgments, Decisions and Orders:** 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.

Counsel must notify the Court by email, with copy to the Part Clerk, of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. A copy of the signed stipulation of discontinuance which has, or will be submitted to the County Clerk, shall be submitted to the Part Clerk so that the matter may be marked disposed.

## Foreclosure Actions

**Motions:** All motions must include a proposed order which disposes of the motion or application for the Court's signature. The [motion templates](#) mandated for residential foreclosure cases statewide where the homeowner has defaulted must be used.

**Substitution of Referee:** Requests to substitute a Referee shall be made by letter to the Court, not by formal motion.

**Judgment of Foreclosure and Sale:** All proposed Judgments of Foreclosure and Sale submitted to the Court shall comply with the form set forth in the motion templates. And must include public notice of time and sale will be made in the journal news.

Referees shall deposit funds in Referee's name in Referee's I.O.L.A. account or other FDIC-insured account. All monies paid into the court shall be deposited with the Rockland County Commissioner of Finance.

**Discontinuance:** Where an agreement has been reached to modify a loan, the parties should submit a stipulation discontinuing the action.

## Contested Matrimonial Actions

**Preliminary Conferences:** 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 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.

The Court expects the parties to agree upon grounds if the action has been brought under DRL § 170(7). In the event that the action is not 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 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 conference so that the Court can determine if the requested items are necessary and/or to set dates for compliance with the demands. Counsel must inform their clients of the automatic orders created by DRL § 236(B)(2)(b) as soon as the attorney-client relationship is formed.

Parties to matrimonial actions are to appear at all matrimonial conferences unless otherwise directed by the Court.

**Motion Practice:** All motions in matrimonial actions must be made by proposed order to show cause, even post-judgment applications. Both parties and counsel must appear on the return date set forth in the order.

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 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.

**Forensic Evaluators:** The reports of evaluators appointed by the Court are confidential. These may be reviewed only by the attorney for a party. 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. 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.

**Pre-Trial Conferences:** Parties must submit the following documents to the Court at the pre-trial conference:

- (1) Marked pleadings;
- (2) A fully executed stipulation of relevant facts that are not in dispute;
- (3) An exhibit list and pre-marked exhibits
  - i Copies of all exhibits intended to be offered must be presented to the Court in a ringed notebook with a table of contents, with the plaintiff's exhibits numbered and the defendant's exhibits lettered in the order in which they are generally intended to be used with external tabs separating each exhibit.
  - ii Counsel must exchange their notebooks with proposed exhibits at least seven (7) business days prior to the Settlement Conference. Counsel must either 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.
  - iii Counsel must be prepared to argue to the Court the admissibility of any exhibits to which objection is taken. Counsel must stipulate to the admission of exhibits to be offered by the adverse parties to the extent possible;
- (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 the witness' testimony;
- (5) A joint statement of proposed disposition as required by 22 NYCRR § 202.16(h). 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;
- (6) A child support worksheet if applicable;

- (7) Updated statements of net worth (with the latest available supporting documents, such as income tax returns, W-2's, brokerage and retirement plan statements);
- (8) Any forensic reports, appraisals or evaluations conducted in the matter.

## Uncontested Matrimonial Actions

All actions must comply with New York State requirements and this Court's requirements. Only [appropriate forms](#) will be considered.

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.

Working Copies are not required. Submit a letter referencing all e-filed materials. 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.

## Trials and Hearings

**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.

**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.

**Personal Injury/Bifurcation:** Personal injury trials, except those involving claims of wrongful death or medical/dental malpractice, will be bifurcated in accordance with 22 NYCRR § 202.42.

**Jury Selection and Contact:** Juries will be selected pursuant 22 NYCRR § 202.33. 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.

**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.

**Objections:** Limited to the objecting party standing (if physically able) and stating “Objection” and the basis for the objection. If the Court requires further explanation of the objection, the Court will ask for further explanation or invite counsel to approach at side bar.

**Use of Recording at Trial or Hearing:** To allow the Court to rule on the admissibility of a recording at trial or hearing, any party intending to use a recording is to submit a copy of the recording and transcript of the proceedings, if applicable, to the Court at least three (3) weeks prior to the scheduled trial or hearing date. Any proposed objections to the recording must be submitted at least two (2) weeks prior to the scheduled trial or hearing date.