

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND**

**INDIVIDUAL PART RULES OF
JUSTICE THOMAS P. ZUGIBE**

General Information:

Courtroom: 2
Address: 1 SOUTH MAIN ST.
NEW CITY, NY 10956

Tel.: (845) 483-8349
Fax: (845) 476-3654

I. Communications with the Court

A. 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. Transmission shall be by fax only. **Correspondence to the Court shall not be e-filed.**

Correspondence between counsel and/or self-represented parties shall not be copied to the Court.

B. 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.

C. Fax transmissions: Unless specifically approved by the Court in advance in a particular case, the Court does not accept legal papers of any kind by fax transmission. Faxed communications are not to exceed 3 pages unless prior permission is obtained from the Court or Court's staff.

II. E-Filing Rules and Protocol

A. E-Filing Protocols: Counsel and self-represented litigants shall familiarize themselves with the statewide E-Filing Rules (§§ 202.5-b and 202.5bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile) and the Rockland County E-Filing Protocol.

General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov. Specific questions about local procedures should be addressed to the Chief Clerk's Office at (845) 483-8310.

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, must be electronically filed.

B. Working Copies: Counsel and self-represented litigants MUST provide working copies of all legal papers which require judicial action (*e.g.*, Orders to Show Cause, motions, notices of settlement, ex parte applications and proposed orders) with exceptions noted below in **matrimonial and foreclosure actions**. 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**. Untabbed papers may be summarily rejected. Following a decision on a motion, the moving party shall be prepared to pickup the working copies at a future court conference or confer with chambers to receive the copies.

All working copies shall be submitted to the Rockland Chief Clerk's Office within 24 hours of e-filing.

All working copies MUST include a copy of the NYSCEF Confirmation Notice, firmly fastened, and must comply with all requirements of the E-Filing Protocols. The Confirmation Notice is generated when the case is e-filed and is available in the specific case file at www.nycourts.gov/efile. Working copies that do not include a NYSCEF Confirmation Notice will be rejected.

C. Hard Copy Submissions: Hard copy submissions in e-filed cases will be rejected unless they bear the Notice of Hard Copy Submission - E-Filed Case required by Uniform Rule § 202.5-b(d)(1)(b). The form is available at www.nycourts.gov/efile.

III. Calendar Call & Conferences

A. General Rules: The Court's calendar will be called at 9:30 a.m. daily. Counsel and self-represented parties are expected to appear for all Court appearances on time. If counsel or a party is unable to appear on time due to unforeseen circumstances (delays due to inclement weather or road closures, for example) he/she should contact opposing counsel and advise the Part Clerk or Court's staff by telephone as soon as possible. Tardy arrivals will not be tolerated.

Counsel who are scheduled to appear before this Court and another Court must communicate that fact to Chambers prior to the date of appearance so that counsel's conflicting appearances can be reconciled. Counsel are not to rely on opposing counsel to advise the Court of their conflict when the case is called. The Court may proceed in that counsel's absence.

B. Who Must Appear: 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. (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.) In non-matrimonial actions, represented parties need not appear for conferences unless directed to do so by the Court. **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.**

In matrimonial actions, litigants must appear with their counsel for all conferences unless such appearance is excused by the Court.

C. Adjournment of Conferences: A request to adjourn a conference must be made in writing **by fax only** to Chambers at least forty-eight (48) hours in advance of the scheduled conference, unless there is an actual emergency that must be stated in the application. All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) 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.

Where the adjournment sought is not on consent, the requesting party should briefly set forth why the adjournment is necessary, the length of the adjournment sought and the reason offered by the non-consenting party for his/her lack of consent. 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, 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.

D. Preliminary Conference: The Court will schedule a Preliminary Conference within 45 days after a Request for Judicial Intervention (RJI) has been filed on a matter. The Part Clerk will forward to the party filing the RJI a letter or email setting forth the date on which the Preliminary Conference will be conducted. The party who files the RJI shall advise all other parties of the Preliminary Conference date in writing.

At the Preliminary Conference, the Court will set specific dates for completion of various items of discovery, the date by which all disclosure must be completed and a date

for a Compliance Conference. 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 not later than one week prior to the scheduled conference date.

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 podiatric 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.

Parties who have a discovery dispute are NOT to wait until the Compliance Conference to bring such dispute or complaint about non-disclosure to the Court's attention. Rather, counsel (or self-represented litigant) who believes that discovery is not being conducted in accordance with the Preliminary Conference (or other Court) Order is to discuss, in good faith, as required by Court Rule § 202.7, the claimed noncompliance with the counsel or self-represented litigant who is claimed not to be complying with the Court Order. A pro forma letter does not constitute a good faith effort. There must be actual **substantive** communication between counsel, either telephonically or in writing, regarding the claimed failure to engage in discovery and the claimed compliance or reason for noncompliance. Exception: Where an Order of Protection prohibits one party from contacting another party, the party who believes that discovery is not being complied with shall contact the Assistant Law Clerk without contacting the opposing party. 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 motion concerning discovery without having first attempted to resolve the issue. 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 via fax 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.

E. Compliance Conference: The Court will conduct a Compliance Conference after the date by which disclosure was to be completed as directed at the Preliminary Conference. At the Compliance Conference, the Court will confirm that discovery proceeded as scheduled although, the parties are again directed to bring to the Court's attention as early as possible any issues that would delay discovery completion. The Court may also conduct a settlement conference at this time. Counsel are to be fully

familiar with the action and all settlement discussions that have previously taken place so that meaningful discussions can be held. As noted above, in all cases 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. In a proper case, the Court may contact the claims adjuster by telephone or direct that the claims adjuster shall appear for a conference.

If the matter is ready for trial, the Court will direct that a Note of Issue be filed.

F. Settlement Conference: The Court will conduct a Settlement Conference approximately 30 days after the Compliance Conference. Counsel attending the Settlement Conference must be fully familiar with the action and 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 must also 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., whether liability may be conceded or certain claims or defenses withdrawn in an appropriate case).

Counsel are advised that, in an effort to foster open settlement discussions, the Court or staff may meet with counsel separately during the discussions. Counsel are presumed to have consented to the Court doing so unless an objection is stated.

G. Pre-Trial Conference: 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. 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, if not previously provided:

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; and
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 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 Word format to the Court's Principal Law Clerk or Assistant Law Clerk. Where the requested charge comes directly from the PJI, only the PJI title, section number, and page number 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.** 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 good faith effort to agree on a jointly prepared Verdict Sheet, 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 format to the Court's Principal Law Clerk or Assistant Law Clerk;

10. **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 self-represented parties. To the extent possible, it is the Court's intention to decide such motions prior to commencement of jury selection;

IV. **Motions & Orders to Show Cause (Temporary Restraining Orders)**

A. **General Rules**

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, and absent an emergency, parties in all matrimonial cases must seek an in-person conference for scheduling prior to filing an Order to Show Cause.**

Except in e-filed cases, proposed Orders to Show Cause submitted for consideration by the Court must include a 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 as the case may be) 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 15 pages each and affirmations and affidavits are limited to 15 pages each. Papers which exceed these limitations may not be considered

by or may be rejected by the Court. Motion papers are limited to Moving Papers, Opposing Papers and Reply. **Sur-Reply papers are not permitted except by express permission from the Court and for good cause shown.**

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 indicating "Oral Argument Requested" above the Index Number on the first page of the papers submitted. A request for oral argument should not be construed as an automatic grant of same. If the Court grants the request for oral argument, the Court staff will inform the attorney for the party who requested oral argument 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.

5. Any Proposed Order to Show Cause should include a space for the Court to set forth a briefing schedule for opposition papers, reply papers, and, if necessary, an appearance date.

6. 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.

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

8. Deposition/Examination Before Trial transcripts included as exhibits must be single, front-faced pages only. Parties may submit four-per-page minusccripts.

9. In non e-filed cases, all counsel shall submit a self-addressed stamped envelope with their moving or opposition papers to allow a copy of the Decision and/or Order to be mailed to the party. The name and Index Number of the case and return date of the motion should appear on the envelope.

B. Adjournments of Motions

A request to adjourn a motion must be made in writing and transmitted to Chambers **by fax only** at least seventy-two (72) hours prior to the return date of the motion, copied to all counsel and self-represented parties.

All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) whether the opposing party(ies) consent(s) or object(s) to the application; 3) the length of the adjournment sought; and 4) the number of prior requests for adjournment and the dates previously set. The Court will advise the party who submitted the request 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.

No more than two (2) 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.

Where the adjournment sought is not on consent, the requesting party should briefly set forth why the adjournment is necessary, the length of the adjournment sought and the reason offered by the non-consenting party for his/her lack of consent. 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, 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. Temporary Restraining Orders

Unless there are extremely unusual circumstances in which significant prejudice (set forth in detail in a supporting affidavit/affirmation) will result, opposing counsel are to be advised by telephone or fax 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 is being presented to the Court. In a true emergency, the Court, in its discretion may dispense with the 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 an Order to Show Cause as provided by 22 NYCRR § 202.7(f) and is to be advised that he/she has the right to be heard on the application.

D. Discovery Disputes

In lieu of discovery motion practice, it is the policy of the Court to make itself and its staff available to resolve disputes related to pretrial discovery. Therefore, ***no discovery motion is to be made by any party unless authorized or directed by the Court.*** Instead, counsel should abide by the procedures set forth in Section IIID above to resolve discovery disputes.

E. Summary Judgment Motions

Summary Judgment motions must be made within sixty (60) days of the filing of the Note of Issue.

When a Summary Judgment motion is made prior to completion of discovery, the making of the motion is not to be deemed to be a stay of discovery. The parties are to continue to abide by any Order or Notice pertaining to discovery unless otherwise directed by the Court.

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). (See *Marmer v IF USA Express Inc.* 73 AD3d 868 [2nd Dept 2010]).

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.

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 at least two lines below the signature line, so that the document being signed by the Court can be identified. Example: *Jones v Jones*, Index #, Type of Document (e.g., Judgment of Divorce).

VI. Foreclosure Actions

A. Motions: All motions in foreclosure actions 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. They are available at http://www.nycourts.gov/admin/OPP/foreclosure_resources.shtml.

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

C. 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. **Working copies are only required for the prior default/summary judgment, any documentation related to the Referee’s Report, and service of the**

motion. The court may require unsolicited working copies to be picked up by a member of the firm or a covering attorney. In addition:

- a** Public Notice of Time and Sale will be made in the Journal News.
- b** Referees shall deposit funds in Referee's name in Referee's I.O.L.A. account or other FDIC insured account.
- c** All monies paid into the court shall be deposited with the Rockland County Commissioner of Finance.
- d** Any late fees owed to a Referee shall apply where less than twenty-four hours notice is given, unless requested by the Referee
- e** Envelopes addressed to any party defendants who are natural persons.

D. Discontinuance: Where an agreement has been reached to modify a loan, the parties should **submit a stipulation** discontinuing the action. A motion to discontinue should be made following an attempt by plaintiff to file a signed stipulation.

VII. Contested Matrimonial Actions

A. 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 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 are to inform their clients of the automatic orders created by DRL § 236(B)(2)(b) as soon as the attorney-client relationship is formed.

As noted above, parties to matrimonial actions are to appear at all matrimonial conferences unless otherwise directed by the Court.

B. Motions: As noted above in Rule IV(A)(1), 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.

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.

C. 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 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 Assistant Law 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.

D. Settlement Conferences:

The parties must submit the following documents to the Court at the Settlement Conference. Failure to submit the required items may result in the Court determining the issues in favor of the party who complied with these Rules.

- a** Marked pleadings;
- b** 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, and the approximate balance on any mortgage);
- c** 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 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. Counsel are to exchange their notebooks with proposed exhibits at least seven (7) business days prior to the Settlement Conference. Failure to timely submit an exhibit list and proposed exhibits may result in preclusion. 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. Counsel must be prepared to argue to the Court the admissibility of any exhibits to which objection is taken. Counsel are advised that the failure to include an exhibit in the exhibit list and exhibit exchange provided for herein may result in preclusion of that exhibit;
- d** 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.
- e** 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.
- f** A child support worksheet if applicable; and
- g** Updated statements of net worth (with the latest available supporting documents, such as income tax returns, W-2's, brokerage and retirement plan statements).
- h** Any forensic reports, appraisals or evaluations conducted in the matter.

Counsel and/or the self-represented 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.

E. Trials and Hearings

All hearings and cases assigned to this Part for trial will proceed day-to-day until conclusion.

VIII. 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.

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 refiling 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.

IX. Trials and Hearings

A. 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.

B. Interpreters: In the event a translator or interpreter is required at trial, counsel shall notify the Part Clerk no later than the Settlement Conference so that timely and appropriate arrangements can be made.

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

D. 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.

E. 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.

F. 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.

G. Objections: Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating “Objection” and the basis for the objection. Speaking Objections are not to be made. If the Court requires further explanation of the Objection, the Court will ask for further explanation or invite counsel to approach at side bar.

H. Use of Recording at Trial or Hearing: In order 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.

X. Settled and Discontinued Cases

Counsel must notify the Court by fax 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.

XI. 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 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.

XII. 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. Discourteous behavior (constant interruptions, outbursts or ad hominem attacks for example) will not be tolerated by the Court.

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

Rev. 2019-8-2