

## **JUSTICE WILLIAM A. KELLY<sup>1</sup>**

1 South Main Street – Suite 200  
New City, New York 10956

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**THE PARTIES MAY NOT CONTACT CHAMBERS REGARDING  
AN ADJOURNMENT OR CONCERNING FUTURE APPEARANCES.**

### **1. GENERAL**

Counsel who appear, including those who appear “of counsel,” must be fully familiar with the case and able to discuss the case in detail. Any counsel who appears must have authority to enter into any agreement, either substantive or procedural, on behalf of their clients. Counsel must be on time for all scheduled appearances and must bring sufficient material to allow meaningful discussion of unresolved issues to each Court appearance. Sanctions may be imposed for failure to comply with this rule.

There shall be no *ex parte* communications with the Court or Court personnel.

### **2. E-FILING**

All parties should familiarize themselves with the statewide [E-Filing Rules](#) (Uniform Rule §§ 202.5-b and 202.5-bb – available at [www.nycourts.gov/efile](http://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@courts.state.ny.us](mailto:efile@courts.state.ny.us)

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<sup>1</sup> Effective 05/24/15

Specific questions relating to local procedures should be addressed to **the Chief Clerk's Office (845) 483-8310**.

In all case required to be filed through the New York State Courts E-Filing system (NYSCEF), submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

**This Part requires working copies for:**

- \* Motion submissions including Notices of Motion, affirmations, affidavits and Memoranda of Law;
- \* proposed Orders to Show Cause,
- \* proposed orders/judgments,
- \* stipulations
- \* letters directed to the Court.

**Note: Parties are not required to supply working copies of exhibits to motion submissions.**

The failure to supply a working copy of a motion will result in denial of the motion. Any other papers filed in connection with the motion for which working copies are not provided will not be considered.

Working copies are to be delivered no later than 12:00 p.m on the third business day following the electronic filing of the document on the NYSCEF site.

### **3. CONFERENCES AND APPEARANCES**

Conferences – Counsel must be prepared to discuss settlement at the compliance/settlement conference. It is expected that discovery Orders issued at the preliminary conference will be complied with. Failure to comply with the Order may result in a waiver of further discovery. Additional time to complete discovery will only be granted upon a showing

of good cause for failure to complete discovery as previously ordered,

The parties and counsel must appear at matrimonial conferences. In Matrimonial Cases, Net Worth Statements are to be filed with the Court at least 3 days **prior** to the conference. Upon arrival at the preliminary conference, prior to having the case called, each side must complete a stipulation, provided by the Court, detailing the issues that have been resolved and those that remain open.

#### **4. ADJOURNMENTS**

Requests for adjournments, other than an adjournment of a motion, whether on consent or not, must be faxed to the Court Clerk at least **5 business days prior** to the scheduled appearance. The fax must set forth the reasons for the request. The parties will be advised by the Clerk, no later than two days before the case is scheduled appearance, whether the request is granted.

**THE PARTIES MAY NOT CONTACT CHAMBERS REGARDING AN ADJOURNMENT OR CONCERNING FUTURE APPEARANCES.**

#### **5. DISCOVERY MATTERS**

Discovery motions are discouraged. No discovery motion should be made prior to a preliminary conference having been conducted. Where a discovery motion is brought and no preliminary conference has been conducted, the Court shall schedule and hold a preliminary conference on the return date of such motion.

Counsel must consult with one another in a good faith effort to resolve all disclosure disputes. See Uniform Rule 202.7. If counsel are unable to resolve a disclosure dispute in the matter, before any formal motion may be made, the procedures set forth below must be followed.

#### **6. MOTIONS**

**ALL MOTIONS ARE ON SUBMISSION, UNLESS OTHERWISE DIRECTED BY THE COURT. APPEARANCES ARE NOT REQUIRED ON THE MOTION RETURN DATE.**

Motions for summary judgment must be filed no more than 45 days after the filing of the note of issue and made returnable no more than 60 days after the filing of the note of issue.

Oral argument may be requested by noting "Oral Argument Requested" immediately over the index number on the Notice of Motion. If the Court, in its discretion, grants such argument, the movant's attorney will be so advised and will be required to notify all parties.

Sur-replies will not be considered, unless the Court otherwise directs. If new issues are raised in the reply, or if there has been a change in the law while the motion is pending, counsel are to advise chambers, in writing, of the request to submit additional affidavits or memoranda. Other papers, including letters which are sent after the submission of the motion, will not be considered.

In the event a motion has been resolved by a withdrawal or settlement of the case, counsel are to advise the Court by promptly faxing to the Court a letter of withdrawal or a Stipulation of Settlement or Discontinuance.

### **Orders to Show Cause**

Upon the issuance of an Order to Show Cause, a copy of the Order will be faxed to counsel for the movant. If a further copy to be conformed is not included, the Court will not copy or otherwise supply a conformed copy.

Unless a TRO is included in the Order to Show Cause, **APPEARANCES ARE NOT REQUIRED.**

Upon an application for an Order to Show Cause seeking a temporary restraining order or other emergency relief, the application shall contain, in addition to the other information required by this section, an affirmation demonstrating there will be significant prejudice to the party seeking the restraining order by the giving of the notice. In the absence of a showing of significant prejudice, the affirmation must demonstrate that a good faith effort has been made to notify the party against whom the temporary restraining order is sought of the time, date, and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application. Failure to comply with the above

requirements will result in the striking of any temporary relief from the proposed Order.

Proof of service shall be submitted to the Court prior to the return date of the motion. Failure to submit proof of service will result in denial of the motion.

## **7. MOTION ADJOURNMENTS**

### **THE PARTIES MAY NOT CALL CHAMBERS REGARDING AN ADJOURNMENT.**

Requests for adjournments, whether on consent or not, must be **faxed** to the Court Clerk at least 5 business days prior to the return date of the motion appearance. The fax must set forth the reasons for the requested adjournment. Additionally, in E-File cases, letters requesting an adjournment must be E-Filed.

When a timely adjournment is on consent, unless the parties are informed otherwise, it may be presumed that the request is granted. However, no more than two adjournments, aggregating a total of 60 days, will be granted.

Failure to follow this procedure will result in a **forfeiture of the right to submit papers**. Counsel should therefore retain the written confirmation that the fax was timely received by the Court.

The parties may not adjourn a motion past a scheduled trial date. Even upon consent of the parties, the scheduled trial date will not be adjourned because of a pending motion.

## **8. TRIALS**

Trials are scheduled to proceed day by day until completed.

### **A. Subpoenas.**

All counsel are reminded that they may sign trial subpoenas duces tecum and subpoenas ad testificatum as officers of the Court pursuant to *CPLR Section 2302*, except when subpoenas are directed to documents of libraries, hospitals, and municipal corporations and their departments and bureaus, in which cases they must be “So Ordered” by the Court pursuant to *CPLR Section 2306* and *2307*.

**The Court will not “So Order” a subpoena unless it is required as described above.** Subpoenas submitted for signature will be ignored if the Court’s Order is not required.

The Courts issuance of “So Ordered” subpoenas should not be viewed by parties as collateral estoppel on the issue of admissibility at trial of the documents to which such subpoenas relate.

**B. Interpreters.** In the event that any party requires the services of a translator during trial for foreign languages or services for the hearing impaired, the Court is to be notified of same no later than the Pretrial Conference so that appropriate arrangements can be made by the Court in advance of the trial date.

### **C. Pre-Trial Requirements.**

#### **Trial notebook**

No later than five (5) business days prior to the scheduled trial date, counsel shall each provide to the other and submit to the Court a trial notebook which shall consist of:

- 1) marked pleadings in accordance with CPLR Rule 4012;
- 2) the joint statement of the relevant facts that are not in dispute;
- 3) pre-trial memorandum of law as to any known disputed legal issues that must be determined by the court. Counsel to annex copies of any cases on which he relies;
- 4) a list of witnesses for each party;
- 5) a list of all exhibits to be offered by each party;
- 6) copies of the exhibits intended to be offered by counsel;
- 7) requests to charge. The charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted. Unless counsel seek a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted (in

writing and on computer disk in Word Perfect format), together with any supporting legal precedent(s). Additionally, to the extent that a requested pattern charge requires a factual statement or a statement of contentions, the text of the statement must be submitted (in writing and on computer disk in Word Perfect format).

8) **verdict sheet.** The verdict sheet is to be typed in final form for presentation to the jury.

9) in matrimonial actions, updated net worth statements, statements of proposed dispositions as required by *Rule 202.16(h)* and any forensic reports, appraisals and evaluations.

**Parties who appear for trial without having timely submitted a trial notebook will be subject to sanctions.**

The Trial Notebook shall not be filed electronically.

The Court may in its discretion relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justifies such relief. Such a request will be entertained only at the pre-trial conference.

#### **D. Depositions**

No later than five (5) business days prior to the scheduled trial date, counsel shall each provide to the other and submit to the Court a detailed list, including line and page numbers, of any deposition testimony they intend to offer at trial.

**E. Evidentiary Objections.**

Not later than one day prior to the scheduled trial date, each counsel shall provide to the other and submit to the court a statement setting forth any objection to the exhibits identified in the list provided by opposing counsel and the specific basis therefor.

**F. Exhibits.**

Any exhibit not identified in the exhibit list provided to opposing counsel, other than an exhibit offered for the purpose of impeachment or rebuttal, shall not be admitted into evidence unless an adequate explanation is provided for the failure to identify such exhibit prior to trial. In addition to the copies of exhibits provided in the trial notebook, each party shall provide at trial one additional set of exhibits which will be used when counsel wishes to publish an exhibit to a witness.

**9. SETTLEMENT OR DISCONTINUANCE**

If an action is settled, discontinued, or otherwise disposed, counsel shall immediately inform the Court by submission of a copy of the stipulation or other document evidencing the disposition.