



HONORABLE HAL B. GREENWALD

INDIVIDUAL PART RULES

Effective January 1, 2024

New York State Supreme Court, 9th Judicial District
Rockland County Supreme Court
1 South Main Street, New City, New York 10956
Courtroom 7

Christa J. Harper, Esq., Principal Law Clerk
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LINKS TO COURT FORMS:

CIVIL:

Preliminary Conference Stipulation/Order (non-matrimonial):

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/PartRules/preliminaryOrder.pdf>

Compliance Conference Stipulation/Order:

<https://www.nycourts.gov/LegacyPDFS/courts/9jd/PartRules/ComplianceOrder.pdf>

Trial Readiness Order:

https://www.nycourts.gov/LegacyPDFS/courts/9jd/PartRules/court_tro.pdf

MATRIMONIAL:

Preliminary Conference Stipulation/Order (contested matrimonial):

[Fillable Preliminary Conf Order 7 1 22.pdf \(nycourts.gov\)](#)

Uncontested Divorce Packet: [COMPOSITE-UNCONTESTED-DIVORCE-FORMS.pdf \(nycourts.gov\)](#).

I. COMMUNICATIONS WITH THE COURT

A. Written Correspondence:

1. **Electronic Filing (E-filing):** For cases filed through the New York State Court Electronic Filing System (NYSCEF), all correspondence to the Court shall be filed and set forth the name and Index Number of the case to which the correspondence pertains and indicate that a copy of the correspondence was sent to all counsel of record and/or self-represented litigants. Correspondence between attorneys and/or self-represented litigants shall not be copied to the Court unless otherwise directed.
2. **Paper/Non-NYSCEF cases:** For cases not filed through NYSCEF, correspondence shall be sent to chambers via facsimile or first-class mail, unless otherwise directed by the Court.
3. Under no circumstances should counsel or parties attempt to litigate via letter/correspondence. Such correspondence will not be addressed by the Court. However, non-substantive and administrative issues may be addressed by such written communication as a letter to the Court.
4. No form of written communication, whether letter or email, shall exceed two pages in length, unless otherwise directed or given permission by the Court.

B. Telephone calls: Phone calls shall be limited to situations requiring immediate attention which cannot be addressed by written correspondence. Requests for adjournment WILL NOT be considered or addressed by phone.

C. Ex-Parte Communications: Any and all ex-parte communication with the Court is strictly prohibited, EXCEPT where an Order to Show Cause is submitted for signature, or upon consent of all parties regarding scheduling matters or settlement negotiations, or where otherwise permitted by law.

II. COURT CONFERENCES

A. All conferences are in-person at the Courthouse unless otherwise directed by the Court.

B. All counsel who appear before the Court shall be familiar with the case and be fully authorized to enter into agreements as to both substantive and procedural matters on behalf of their clients. Attorneys appearing “of counsel” to the attorney of record and self-represented litigants shall be held to the same requirements. Failure to comply with this rule may be regarded as a default. All counsel and self-represented litigants are expected to be on time for all scheduled appearances.

C. Preliminary Conferences: A preliminary conference shall be held within forty-five (45) days of filing of the RJL. Attorneys/self-represented litigants shall submit a proposed Preliminary Conference Order/Stipulation (“PC Stip”) at least three (3) business days prior to the scheduled

conference date (see page 1 for link to form).

D. Compliance Conferences: A compliance conference shall be scheduled at the conclusion of the preliminary conference. Counsel/parties are expected to adhere to the terms set forth in the PC Stip. Any requests for adjournments to discovery schedules in the PC Stip shall be made at least two (2) business days prior to the deadline for such discovery schedule and will not be effective unless approved by the Court.

E. Trial Readiness: Upon the completion of discovery, the Court will schedule a trial readiness conference. Counsel/parties shall submit the Trial Readiness Order or appear on the scheduled date. The Note of Issue shall be filed within twenty (20) days of submission of the conformed Trial Readiness Order.

F. Settlement Conferences: Settlement conferences shall be held sixty (60+) days after the Note of Issue is filed.

G. Pre-trial Conferences: Pre-trial conferences will be scheduled after a settlement conference is held. Please see Section VII, "Trials & Hearings" for more details.

H. Adjournment of Conferences:

1. Counsel/parties shall consult with opposition for consent to an adjournment prior to making the request for an adjournment.
2. All adjournment requests shall be made in writing at least forty-eight (48) hours prior to the return date/appearance date.
3. Adjournments in E-filed cases shall be made via NYSEF. Adjournment requests in non-NYSCEF filed cases shall be submitted via facsimile.
4. All requests must set forth: (1) the reason why an adjournment is necessary, (2) whether the opposing party has consented to or objects to the request, and (3) at least **three (3) proposed dates** for the adjournment that all counsel are available to appear.
5. Counsel who seek to adjourn matters due to an actual engagement shall submit an affirmation of engagement with the adjournment request via NYSCEF and copy all parties and counsel.
6. Should a request for adjournment be approved by the Court the parties/counsel shall be notified via a Court Notice filed on NYSCEF, email, or and/or an updated Microsoft Teams link (where applicable).
7. The Court may, in the exercise of sound discretion, permit or deny a conference adjournment in any given instance. If the parties have not received an answer from the Court approving or denying the request, appearances are required.

8. No more than two conference (2) adjournments per party per case shall be accepted, EXCEPT in specific circumstances.

I. Specific Notifications – Stay of Action: If an action pending before the Court has been stayed as a result of the filing of the bankruptcy action, an appeal or for some other reason, the Court shall be immediately notified in writing, via e-file, or by facsimile or mail if not an e-filed case of same. Similarly, if a bankruptcy, appeal, or other reason for the that has been otherwise resolved, the Court shall be **immediately** notified via e-file, or by facsimile or mail if not an e-filed case of same. The Court shall be provided with periodic notifications of the status of the stay every sixty (60) days.

III. E-FILING RULES AND PROTOCOL

All documents filed in mandatory e-filed cases, except those 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 e-filed through NYSCEF. Any and all submissions to the Court, including proposed orders, judgments, and letters shall be e-filed through NYSCEF.

Counsel for parties or parties participating through the NYSCEF system shall familiarize themselves with the statewide e-filing rules (see, §202.5-b and §202.5-bb of the Uniform Rules for the New York State Trial Courts, available at www.nycourts.gov/efile). General questions about E-filing should be addressed to the E-filing Resource Center at (646) 386-3033 or nyscef@nycourts.gov.

IV. MOTION PRACTICE RULES

A. Format of Documents: All motions papers submitted to the Court, including Orders to Show Cause, shall be legible, type-written in 12-point double-spaced font, with 1-inch margins, and with any exhibits labeled. Motion papers and all related correspondence shall indicate the Index Number assigned to the action. Counsel/parties shall adhere to the directives in §§202.5, 202.8, and 202.8-a through 202.8-g of the Uniform Civil Rules for Supreme and County Courts.

B. Notice of Motion: Applications by Notice of Motion (or Notice of Petition) shall be made returnable on any **Thursday** the Court is in session. Motion papers are limited to Moving Papers, Opposing Papers (which includes Cross-Motions), and Reply Papers. Sur-Reply papers are not permitted. Reply papers by the movant of a Cross-Motion are not permitted.

*Please note: There are no appearances on the return date of a Notice of Motion unless otherwise directed by the Court.

C. Orders to Show Cause: If the Order to Show Cause is signed by the Court, service of same is to be served in the manner set forth therein. Unless otherwise indicated, an in-person appearance is required on the return date of all Orders to Show Cause. If an appearance is not required, this

will be indicated and there will be no oral argument on the return date.

1. All motions and cross-motions in matrimonial actions shall be made by Order to Show Cause.

2. All other matters which move by way of Order to Show Cause shall state within the first page of counsel's Affirmation or Affidavit in Support the exigent and/or emergency circumstances which necessitated the filing of an Order to Show Cause rather than a Notice of Motion.

3. Temporary Injunctive Relief: When an Order to Show Cause is to be presented to the Court which seeks temporary injunctive relief, including but not limited to, a stay or a temporary restraining order (TRO), counsel for the moving party or any self-represented party shall demonstrate compliance with 22 NYCRR §202.7(f) of the Uniform Rules for the New York State Trial Courts regarding notice to affected parties.

D. Working Copies of Motion Documents: Working copies shall not be required in e-filed cases unless otherwise directed on a specific basis in a matter. In the event that this Part requires a working copy, the working copy shall have the notification generated by the NYSCEF system, showing that the document has been e-filed, firmly fastened thereto as a cover page.

E. Papers Required on Particular Motions: For e-filed cases, motion exhibits shall not be replicated in the same motion sequence of a related sequence once submitted including simultaneous submission of summary judgment motions (CPLR 2214[c]). The parties shall confer to assure that this rule is followed. Exhibits referenced in depositions that are to be considered on a motion shall be labeled in the same manner as all other exhibits.

As provided in CPLR 2214 (c), with respect to furnishing papers to the Court:

1. Each party shall furnish to the Court all papers served by that party;

2. The moving party shall furnish all other papers not already in the possession of the Court necessary for the consideration of the questions involved; and

3. Except when the rules of the Court provide otherwise, in an E-filed action, a party that filed papers in connection with a motion need not include copies of papers that were previously filed electronically with the Court but may make reference to them, giving the Document Number in the E-filing system for that case. Where such papers are in the possession of the adverse party, they shall be produced by that party at a hearing on notice served with the motion papers. Only papers served in accordance with the provisions of this rule shall be read in support of, or opposition to the motions, unless the Court, for good cause, shall direct otherwise.

F. Dispositive Motions/Summary Judgment Motions: Pursuant to NYCRR 202.8-g, motions for summary judgment and opposition papers to summary judgment shall be accompanied by a separate statement of material fact, with numbered paragraphs, as to which it is contended that

there is/is not a genuine issue of facts to be tried. The numbered paragraphs in the moving party's statement of material fact will be deemed admitted unless specifically controverted by a corresponding numbered paragraph in the opposing party's statement of material fact. EACH statement of material facts shall be followed by citation to evidence submitted in support of or in opposition to the motion. The moving party shall include copies of all pleadings filed as of the date the motion is filed. The failure to comply with these requirements may result in the denial of the motion.

G. Motions for Leave to Renew or Reargue: On any motion seeking leave to renew or reargue a prior motion pursuant to CPLR 2221, if the action is filed on NYSCEF papers previously filed do not need to be uploaded again but must be referenced by their NYSCEF Document Number. The failure to comply with these requirements may result in the denial of the motion unless papers on the prior motions are referenced by another party.

H. Motions for Leave to Amend, Supplement, or Correct Pleadings: On any motion for leave to amend, supplement, or correct a pleading, in addition to the proposed amended, supplemental, or corrected pleading a moving party shall reference copies of all pleadings filed on NYSCEF as of the date of the motion. The proposed changes to a pleading shall be clearly shown. The failure to comply with this requirement may result in the denial of the motion unless copies of the prior pleadings are submitted to the Court by another party.

I. Motions for Injunctive Relief: Where an Order to Show Cause is to be presented to the Court, copies of the summons and complaint or petition commencing the underlying action shall be provided to the Court by the moving party. The failure to comply with this requirement may result in the denial of the Order to Show Cause. Where temporary injunctive relief is sought, counsel for the moving party, or any self-represented party, shall demonstrate compliance with §202.7(f) of the Uniform Rules for the New York State Trial Courts regarding notice to affected parties.

J. Default Motions: On any motion for a default judgment, proof shall be presented that a military status investigation of all individual (non-corporate) defendants has been conducted after the time for each such defendant to appear or answer, as applicable, has passed. In addition, to be sufficient, the military status investigation must include, at a minimum, proof of a search conducted through the Department of Defense, which may be performed through that agency's internet site, <https://scra.dmdc.osd.mil/scra/#/home>.

K. Settled Motions: In the event that the parties settle, withdraw, or otherwise resolve a motion, or part of a motion, before the motion return date or before a decision has been rendered, they shall immediately inform the Court by contacting our Part Clerk, by letter on NYSCEF in NYSCEF filed cases or by email in non-NYSCEF filed cases. In addition, a document detailing the withdrawal, settlement, or other resolution of the motion shall be filed via NYSCEF or, in a non-e-filed case, with the County Clerk.

L. Motion Decisions and Orders:

1. Written Decisions: In most instances, a written decision and order will be issued by the Court following the full submission of the motion. The decision and order will be e-filed through NYSCEF. E-filing parties shall serve documents in hard copy on parties who have not recorded their participation in e-filing and e-file proof of such service.

2. Bench Decisions: In certain instances, the Court will render a decision from the bench. Any party seeking a written order shall submit to the Court a proposed order supported by a copy of the transcript of the proceedings at which the bench decision was rendered, within ten (10) days. The signed order will be e-filed by the Court through NYSCEF.

3. E-filing parties shall serve documents in hard copy on parties who have not recorded their participation in e-filing, but who have provided a notice of appearance, and e-file proof of such service.

V. DISCOVERY

The date of the first compliance conference shall be noted on the preliminary conference order.

A. Applications for extensions of a discovery deadline shall be made at least two (2) business days prior to the expiration of such deadline (22 NYCRR 202.20-e).

B. The request for an adjournment shall be made in writing at least two (2) business days before the scheduled conference. Adjournments of compliance conferences shall be granted upon a showing of good cause (22 NYCRR 202.10). **Good cause includes the parties resolving outstanding discovery issues in a manner that results in the submission of a completed and signed Compliance Conference Stipulation and Order to the Court at least two (2) business days before the scheduled conference.**

The parties shall upload a signed stipulation to NYSCEF and must notify Chambers by e-mail to the Secretary to the Judge, Kerry Walsh Smahaj, at klywalsh@nycourts.gov, to inform Chambers that they have filed the stipulation and seek to adjourn their appearances. Failure to timely upload the stipulation will require counsel/parties to appear in court as scheduled.

1. Where there is no stipulation, the request for an adjournment shall include three (3) proposed alternative dates for rescheduling the conference, which shall not be more than sixty (60) days from the date of the scheduled conference.

2. The Court shall confirm all adjournments via NYSCEF in E-filed matters, or by email or mail in non-NYSCEF cases. Where there is no written confirmation that an adjournment has been granted, counsel/ parties shall appear for the conference as originally scheduled.

3. The parties are cautioned that any adjournment of the compliance conference will not excuse a failure to provide discovery or failure to adhere to a preliminary conference

order or compliance conference order and that discovery shall proceed during the period of any adjournment (22 NYCRR 202.10).

C. Discovery Disputes: Prior to seeking judicial intervention by motion, counsel and/or unrepresented parties shall communicate with each other and attempt to resolve or limit any discovery issues. The court endeavors to resolve discovery disputes promptly, usually by conference, which may be held telephonically, virtually or in person. A discovery conference may be obtained by submitting a letter application, not exceeding one (1) page in length, to the Part Clerk, via e-mail and e-filing same in NYSCEF.

VI. TRIALS AND HEARINGS

A. Interpreters and Special Services: Counsel and any self-represented party shall immediately advise the Part Clerk, if services of a foreign language interpreter are required for any party or witness, or if any special services are required for any party or witness who is hearing-impaired or who has any other disability.

B. Trial Aids: Counsel and any self-represented party shall immediately advise the Part Clerk if there is a need for an easel, shadow box, blackboard, white board, or any other trial aid. Projection equipment, screens, and/or extension cords shall be provided by counsel.

C. Pre-Trial Conference: Immediately preceding the commencement of the trial, the Court shall conduct a conference with all counsel and self-represented parties to discuss preliminary matters and the possibility of settlement. At this conference, counsel must have full authority to settle, or be able to immediately reach the person with such authority by telephone. Additionally, all counsel and self-represented parties shall be prepared to:

1. Advise the Court as to all anticipated disputed issues of law and fact and provide the Court with citations to all statutory and common-law authority upon which they will rely;
2. Stipulate to undisputed facts and the admission into evidence of documents, records, and other exhibits, for which no evidentiary objection will be made.
3. Alert the Court to any anticipated in limine motions or evidentiary or legal issues they believe will arise during the trial.
4. Provide the Court with a copy of all prior decisions and orders in the case that may be relevant to any in limine applications or evidentiary or legal issues.
5. Discuss scheduling, as well as the number of witnesses to be called at trial, any anticipated issues regarding the attendance at trial of any party, attorney or witnesses, and any other practical problems the Court should consider in scheduling.
6. Alert the Court as to any anticipated requests for a jury instruction relating to missing witnesses or evidence.

7. Alert the Court as to any anticipated request pursuant to CPLR Article 16 for apportionment of liability as to an allegedly culpable non-party.

D. Trial Notebooks: Trial Notebooks are due not less than five (5) business days prior to the Pre-Trial Conference.

1. Trial Notebooks shall be assembled in three-ring binders, with sequential tabs dividing each section. Plaintiff shall use numbered tabs. Defendant shall use lettered tabs.

2. Each notebook shall include an index, identifying the contents of the Trial Notebook, and the Trial Notebooks shall include:

a. Marked pleadings and bills of particulars;

b. A statement of the estimated length of trial;

c. A written stipulation governing all facts that are not in dispute;

d. In **all matrimonial actions**: updated net worth statements, with supporting documents and a statement of proposed disposition;

e. A copy of any statutory provisions upon which any party intends to rely;

f. All expert witness reports and disclosures exchanged between the parties;

g. A list of all witnesses who counsel plans to call at trial. Please include the contact information (email/telephone number) for each witness and a brief detailed statement or offer of proof as to why the witness shall be called. If a witness is not on the witness list, they may not be called to testify if there is no sufficient basis for excluding them from the list;

h. A list of all exhibits the party expects to use at trial, indicating whether such exhibits are stipulated for admission into evidence or are marked only for identification. This is to be done prior to your appearance in Court.

E. 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, and at least five (5) business days prior to trial. Counsel shall make every effort 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.

F. Trial Preparation: Prior to the commencement of the trial or hearing, counsel shall ascertain the availability of all witnesses and subpoenaed documents. Counsel for any party or any self-represented party who has issued subpoenas for the production of records shall make a written request that the Part Clerk obtain all subpoenaed documents from the file room upon reporting to

the Part for trial, at least one (1) week prior to trial.

G. Copies of Transcripts: Immediately prior to the commencement of the trial, all transcripts of examinations before trial that may be used either to refresh a witness' recollection or for cross-examination shall be provided to the Court. If any part of a transcript of an examination before trial or other recorded proceeding will be read as evidence-in-chief, the proponent of the transcript shall provide a complete copy of it to the Court immediately prior to the commencement of the trial, with citations to the page and line numbers for all portions to be read.

H. Addressing the Court: Any counsel or self-represented party who is presenting an argument or otherwise addressing the Court, including the making of objections, shall stand while doing so, unless the Court directs otherwise. If it is believed that argument on an objection is necessary, to avoid any inappropriate influence on the jury, any counsel or self-represented party may ask permission to approach the bench for a sidebar conference to discuss the matter.

I. Courtroom Behavior: All remarks and all requests, such as for a read-back of testimony or the assistance of a Court Officer, shall be directed to the Court. Comments shall not be made to opposing counsel or self-represented parties. **Personal attacks upon parties, counsel or the Court will not be tolerated and may result in the imposition of sanctions as determined by the Court to be warranted under the circumstances.** Do not attempt to speak over an adversary; only one person shall speak at a time. If a significant discussion with an adversary is required, permission to approach the bench for a sidebar conference shall be requested.

J. Use of Exhibits: Do not show anything, including an exhibit or proposed exhibit, to a witness without first showing it to all opposing counsel and self-represented parties. If any counsel or self-represented party believes this procedure will compromise his, her, or their trial strategy, he, she or they shall first request a pre-offer ruling outside the presence of the jury.

1. Summation Exhibits: Any counsel or self-represented party who intends during summation to use any type of demonstrative exhibit not marked into evidence must advise the Court and all other counsel and self-represented parties of that intention at the pre-charge conference. Failure to comply with this rule may result in an order precluding use of the exhibit during summation.

K. Examination of Witnesses: Do not approach a witness on the stand during questioning without the Court's permission. In the absence of such permission, counsel shall not come closer to the witness stand than the line created by the front of the table occupied by plaintiff's counsel. While conducting the examination of a witness, the questioning counsel or self-represented party shall not intentionally make eye to eye contact with the jurors.

The questioning counsel or self-represented party shall allow the witness to complete his, her, or their answer to a question before asking another question. Do not interrupt a witness in the middle of an answer unless it is totally unresponsive, in which event a ruling from the Court shall be requested. If an objection is made during the examination of a witness, opposing counsel shall

not make further inquiry of the witness until the Court rules on the objection.

L. Jury Charges: In all jury trials, a complete list of requests to charge shall be submitted to the Court immediately prior to the commencement of trial, with copies to be provided to all other counsel and self-represented parties.

1. Counsel must use requested charges drawn from the current year's Pattern Jury Instructions (PJI); only the PJI number and title need be submitted.

2. Where deviations from, or additions to, the PJI are requested, or where an instruction has a space for facts or other information to be filled in, the full text of such requests or insertions must be submitted in writing, together with any supporting legal precedents.

3. In addition, such proposals shall be prepared in Word format and e-mailed to the Secretary to the Judge, Kerry Walsh Smahaj at klywalsh@nycourts.gov. At the final charge conference, if marshaling of the evidence is required as to a particular jury charge, counsel and all self-represented parties shall provide the Court with the proposed facts they seek to be presented to the jury.

4. **Verdict Sheet:** At the commencement of the trial, counsel for the parties and any self-represented parties shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all other parties. The verdict sheet shall be in a final, typewritten form, which may be used given by the court to the jury. In addition, the proposed verdict sheet(s) shall be submitted in Word format and e-mailed to the Secretary to the Judge, Kerry Walsh Smahaj at klywalsh@nycourts.gov

5. **Check-in:** At the start of each day of trial, all counsel and self-represented parties shall check in with the Part Clerk so he will be aware of your presence.

6. **Food and Beverage:** Absent the Court's permission obtained in advance, no counsel or party shall bring any food or beverage into the courtroom, except coffee or tea in a covered container or bottled water.

VI. MATRIMONIAL ACTIONS

A. Preliminary Conference: Preliminary Conference must be conducted within forty-five (45) days of the filing of the Request for Judicial Intervention.

1. Preliminary Conference, shall be scheduled and conducted in accordance with 22 NYCRR §202.16(f).

2. A Preliminary Conference may not be adjourned for more than fourteen (14) calendar days from the date for which it is initially scheduled absent a showing of good cause which shall be defined narrowly to include emergencies.

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

4. Prior to the Preliminary Conference, attorneys for the parties shall meet in person whenever practicable or conduct a meaningful phone conference at least ten (10) days prior to the conference to review and complete a proposed Preliminary Conference Order, and resolve, if possible, issues of pendente lite relief, final relief, counsel fees, parenting plans and access. Parties must submit the proposed Preliminary Conference Order at least two (2) days prior to the scheduled Conference via NYSCEF. (Please see page 1 for a link to the form.)

5. Statements of Net Worth and attachments required by 22 NYCRR 202.16 (f)(1)(i-vi) (a) and (b) shall be exchanged between counsel and/or self-represented parties. Counsel and self-represented parties shall also file Statements of Net Worth and attachments required by 22 NYCRR 202.16 (f)(1)(i-vi) (a) and (b) no later than ten (10) days prior to the date of the Preliminary Conference. Failure to comply with the provisions of this paragraph may result in the imposition of sanctions, including, but not limited to, an award of counsel fees to the compliant party, the denial of counsel fees to the non-compliant party, the imposition of monetary sanctions or other appropriate sanctions. **Counsel are reminded that Statements of Net Worth are subject to a continuing duty to disclose pursuant to CPLR 3101(h).**

6. At the Preliminary Conference and all subsequent conferences, the Court may place the parties under oath, and any statements by the parties or answers to questions by the parties may serve as a basis for a temporary order provided that a full stenographic record is made of such proceedings consistent with Judiciary Law § 295.

7. During the Preliminary Conference, the Court shall ascertain whether the granting of a divorce is contested and that all litigants are entitled to a divorce based on DRL §170(7), unless the alleged grounds occurred within six (6) months of filing. If the parties agree that the granting of a divorce will not be contested, the agreement will be incorporated into the Preliminary Conference Order. If a complaint or answer has not been served, the stipulation shall provide that the parties waive and relinquish any right either may otherwise have to discontinue the action as of right pursuant to CPLR Rule 3217(a)(1).

a. Any courts orders resolving issues within the matrimonial action, such as custody, child support, maintenance, etc. shall be submitted to Court via NYSCEF on or before the Preliminary Conference.

VII. MATRIMONIAL TRIALS

All matrimonial trials and hearings shall proceed day-to-day until conclusion, where practicable.

A. On the first day scheduled for trial, the trial shall proceed unless either:

1. A file stamped copy of a Notice or Stipulation of Discontinuance is filed with the Part Clerk via email dbevacqu@nycourts.gov in non-NYSCEF cases, or via NYSCEF in e-filed cases.

2. A fully executed copy of a Stipulation of Settlement or Separation Agreement is filed with NYSCEF in e-filed cases, and the Part Clerk via email at dbevacqu@nycourts.gov.

B. Upon the filing of such Stipulation of Settlement or Separation Agreement, the Court will provide counsel with a date certain to submit the required papers for the entry of judgment. If counsel fail to timely submit the papers and/or fail to appear, sanctions may be imposed upon counsel and/or the action may be dismissed.

C. In the event that on the trial date, counsel represent that the parties have resolved all of the issues but have not yet entered into a formal agreement, the Justice presiding may, in his: (a) require the parties to place their agreement on the record as an oral stipulation of settlement as authorized by CPLR § 2104; (b) grant a limited adjournment for the purpose of allowing the submission of a Stipulation of Settlement or Separation Agreement; or (c) require counsel and the parties to proceed to trial.

D. Two (2) weeks prior to the commencement of trial, Unless the Court directs otherwise counsel must submit to the Court the following documents:

1. Marked pleadings;

2. Fully executed stipulation of relevant facts: It is expected that even in the most contentious case, there are facts that are not in dispute (e.g., the date of the marriage, the names and birth dates of children, location of real estate, bank and other account balances as of date of marriage, date of commencement, and most recent statement, deferred compensation and pension information, etc.). Failure to stipulate to undisputed facts may increase a counsel fee award payable by the party who failed to stipulate or may decrease a counsel fee award payable to a party who failed to stipulate;

3. Exhibit lists: Counsel are advised that, absent unusual circumstances, each side may be limited to no more than 15 exhibits, bearing in mind that the need for exhibits (such as tax returns and bank statements) may be reduced, if not eliminated, by stipulations as to undisputed facts (e.g., the amount of the mortgage as of a given date, the amount on deposit in a bank as of a given date). In complex financial cases, counsel is encouraged to utilize the voluminous writing exception to the best evidence rule (see *Ed Guth Realty, Inc. v. Gingold*, 34 NY2d 440, 452, 358 NYS2d 367 [1974]). The rule saves time and counsel fees by creation of a chart outlining the documentary evidence sought to be admitted. The backup documents that verify the content of the chart shall be sent to

opposing counsel so they can verify the underlying documents and test the accuracy of the chart prior to trial. The proposed exhibit(s) shall be exchanged 10 days prior to trial, rather than one week in order to allow time for evaluation.

4. Witness List: A list of witnesses, the anticipated order in which they may be called and an estimate of the amount of time that counsel expects that each witness' testimony will take:

- a. A child support worksheet, if applicable;
- b. A maintenance worksheet, if applicable;
- c. Updated Statements of Net Worth;
- d. Statements of Proposed Disposition together with any written agreements entered into between the parties relating to financial arrangements, equitable distribution, custody or access.
- e. In electronically filed actions, counsel are encouraged to file evidence through NYSCEF using the procedures established for the filing of evidence, with appropriate redactions and paginations of multiple pages by "Bates stamp" or similar paginating function.
- f. Counsel are advised that, absent unusual circumstances, matrimonial trials are expected to be completed within five (5) full days.

VIII. COMPENSATION FOR ATTORNEYS FOR THE CHILD[REN] AND COURT-APPOINTED EXPERTS

A. In any order appointing an Attorney for the Child(ren) or appointing an expert, the assigned Justice shall designate the name of the person or firm appointed, shall provide for an initial payment to the appointee, and shall provide for the allocation of financial responsibility as between the parties, subject to reallocation by the Court upon conclusion of the matter.

B. The initial retainer awarded to the Attorney for the Child(ren), or if no retainer was authorized, may be supplemented as set forth herein. Once the retainer is expended, or where no retainer is authorized, the parties shall pay all bills sent by the Attorney for the Child(ren) within twenty (20) days of the date of the bill.

1. All compensation and reimbursement for disbursements billed by the Attorney for the Child(ren) during the pendency of the action shall be approved in the final order of compensation (UCS Form 882) which shall be settled by the Attorney for the Child(ren) on five (5) days' notice, at the conclusion of the Attorney for the Child(ren)'s service in the action or proceeding, or as otherwise directed by the Court and served upon the Fiduciary Clerk. The final order of compensation shall be supported by the Attorney for

the Children's Affirmation of Services (UCS Form 881) and served upon the Fiduciary Clerk and the parties.

2. Within ten (10) days of service of a copy of the final order of compensation, the Attorney for the Child(ren) shall return to a party any amount paid by that party in excess of his/her share of compensation and reimbursement for disbursements, as approved by the Court in the final order of compensation. The Attorney for the Child(ren) shall promptly file all forms required by Rule 36.1 of the Rules of the Chief Judge in order to receive prompt payment, and an order awarding final compensation shall not be entered except in compliance with Rule 36.1. Nothing herein shall limit the Attorney for the Children from moving for Judgment after the award of a final order of compensation and an unpaid balance due, or with the approval of the Court. obtaining security for payment.

IX. FORENSICS AND NEUTRAL EXPERTS

A. A request for a forensic evaluation in a custody or access matter shall be made as soon as possible, but no later than ninety (90) days prior to any scheduled fact-finding hearing on the pending matter.

1. When the Court has issued an order directing a forensic evaluation, all parties shall participate and cooperate with the forensic evaluator. The evaluation shall be completed by the deadline set forth in the Court's order absent further order from the Court discontinuing the evaluation. After the forensic order is issued and a court-appointed neutral forensic evaluator is assigned, all correspondence to such evaluator as well as any documents supplied to the evaluator must be provided to the Court and the opposing party.

a. 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**. The report(s) shall not be copied or disclosed to any person except as permitted by order of the Court.

i. A party may review the report but may not possess a copy of the report.

ii. Any attorney who wishes to receive a copy of the report shall first sign an affirmation of confidentiality that may be obtained from the Part Clerk.

iii. Self-represented litigants may arrange directly with the 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 reviews the report. Notes may be taken regarding the content of the Report.

iv. The report in its entirety shall be admissible in evidence if all parties to the action stipulate to its admission.

v. All parties, or their attorneys if represented, have an opportunity to object to the admissibility of the forensic evaluation report or validation report (“report”). Said objection to the admissibility of the report must be made in writing and filed with the Court, copied to all sides. The written objection must be received on or before the earlier of the following two dates: (1) two weeks before the date of the scheduled trial; or (2) on the date of the compliance conference.

b. 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.

X. UNCONTESTED MATRIMONIAL ACTIONS

A. Please use the forms provided at: [COMPOSITE-UNCONTESTED-DIVORCE-FORMS.pdf \(nycourts.gov\)](#).

Counsel/parties, shall fill out the forms of this packet completely, or the relief sought may be denied.

B. The Court will review all uncontested matrimonial materials submitted on an as received basis.

C. Counsel or self-represented parties will be advised of any deficiencies in the papers submitted via NYSCEF in e-filed cases, and via mail or email in non-NYSCEF filed cases.

1. All 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).

D. Where a Stipulation of Settlement or Settlement Agreement is being incorporated into the Judgment of Divorce, or a Court Order has resolved the issues of custody, child support and/or maintenance, a complete notarized copy, of the Agreement or Orders shall be attached with the packet.

E. A proposed Judgment of Divorce or the Findings of Fact and Conclusions of Law must be submitted with packet. The instructions and forms are provided with the link.

XI. FORECLOSURES

A. All motions pursuant to this section must include a proposed order which disposes of the motion or application for the Court’s signature. To the extent possible, please use the motion templates provided by nycourts.gov (see link on page 1 of the Part Rules).

B. Judgment of Foreclosure & Sale: All proposed Judgments of Foreclosure and Sale submitted to the Court shall comply with the form set forth in the motion templates available at www.nycourts.gov and must include public notice of time and sale will be made in The Journal News (Rockland).

C. Surplus Monies Proceeding: Appearances by the parties and the appointed Referee are required in the manner set forth in the Judgment unless:

1. A completed Foreclosure Action Surplus Monies Form has been filed and received by the Court at least one week prior to the conference date; or
2. the Referee notifies the Court in writing at least one week prior to the conference date that the sale has not/will not occur prior to the conference date and requests a new conference date to be scheduled subsequent to the anticipated foreclosure sale date.

XI. MISCELLANEOUS

A. Settlements and Discontinuances: If an action is settled, discontinued, or otherwise disposed of in any manner by the parties, counsel and self-represented parties shall immediately inform the Court by letter, along with a copy of the Stipulation of Discontinuance, and, in an e-filed case, by filing the Stipulation via NYSCEF. In a non-NYSCEF case, the Stipulation of Discontinuance shall be filed with the County Clerk, with a copy provided to Chambers. The Court will not mark any matter settled unless these directions have been complied with.

B. Conduct of Parties and Counsel: It is expected that all parties and counsel shall conduct themselves appropriately in all in-court and out-of-court (virtual) proceedings and in their communications with each other and to the Court. Personal attacks upon parties, counsel or the Court will not be tolerated and may result in the imposition of sanctions, as the Court determines to be warranted under the circumstances.

C. Communications with Represented Parties: Counsel are directed to inform their clients that under no circumstances shall any represented party engage in any conversation or exchange any communication with the Court's staff (*see* CPLR § 321[a]). If a represented party communicates with any member of the Court's staff, all counsel shall be informed of the communication and, if it is in writing, shall be sent a copy of that writing.

D. Scheduling: Counsel and any self-represented party should address questions about scheduling appearances or adjourning appearances to the Secretary to the Judge, Kerry Walsh Smahaj at klywalsh@nycourts.gov

These Rules (Rev. 1-10-2024) are subject to revision or modification by the Court