



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

INDIVIDUAL PART RULES OF
THE HONORABLE DAVID FRIED

*Judge of the New York State Court of Claims
& Acting Justice of the Supreme Court*

CONTACT INFORMATION

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CURRENTNESS

The within Individual Part Rules of Judge Fried are effective and current as of July 12, 2023.

1. INTRODUCTION

The Individual Part Rules of Judge Fried (“the Rules”) supplement and, where inconsistent with, supersede the Uniform Civil Rules for the Supreme and the County Court, 22 NYCRR § 202.1, et seq., and the amendments thereto, which became effective February 1, 2021. It is the Court’s strict expectation that attorneys, self-represented litigants, and other court users with matters before this Court will abide by these Rules. The application and enforcement of these Rules aspire to encourage and promote consistency, efficiency, and fundamental fairness. Judge Fried’s Part Rules are amended from time to time. You are strongly encouraged to monitor these Rules for amendment.

2. COMMUNICATIONS WITH THE COURT

(a) Written Correspondence

- i. All written correspondence to the Court shall include a subject line bearing the full title and index number of the action, and indicate that a copy was sent to all other counsel or self-represented litigant(s) simultaneous with transmittal to the Court.
- ii. All correspondence shall be concise and state the specific relief sought or action requested to be taken by the Court. Please be mindful that letters are neither pleadings nor motions. Litigation by letter is strongly discouraged.
- iii. Unless otherwise directed, do not copy the Court on correspondence between counsel and or parties.
- iv. Correspondence to Judge Fried must be submitted via NYSCEF. Do not submit correspondence by fax, email, and or mail.
- v. Self-represented litigants who have properly opted-out of NYSCEF, may submit correspondence via fax, or hand-delivery to the Office of the Supreme Court Clerk on the second floor of the Rockland County Courthouse.
- vi. Written correspondence which is not compliant with these Rules will be disregarded in the Court’s sole and exclusive discretion.

(b) Telephone Calls

- i. Except as otherwise specifically stated herein, telephone calls to Chambers are permitted only in situations requiring immediate and or urgent attention that cannot otherwise reasonably be obtained by correspondence.

3. E-FILING RULES & PROTOCOLS

(a) General Rule

- i. 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.
- ii. 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.
- iii. 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 must be electronically filed, except as otherwise provided for herein or as directed by the Court. All court users are directed to be mindful of and compliant with redaction rules, as may be applicable.

4. CALENDAR CALLS & CONFERENCES

(a) General Rules

- i. Judge Fried's Court is called to order promptly at 9:15 AM unless otherwise specified by the Court. Absent an express notice to the contrary, appearances are conducted in-person.
- ii. Counsel and self-represented parties are expected to appear for all Court appearances on time. If you are unable to appear on time due to unforeseen and or emergency circumstances (i.e., delays due to inclement weather, road closures, and medical emergencies), please contact your adversary and advise the Part Clerk by telephone promptly. You should be prepared to document and or provide proof relevant to an emergency and or unforeseen circumstance causing lateness (i.e., a doctor's note or accident report). Absent the aforesaid, you are expected to appear promptly and on-time. An attorney or self-represented party who appears late inconsistent with these Rules should expect that the Court will require you to financially compensate your adversary for the costs of his or her time waiting in Court for your arrival.
- iii. Counsel who are scheduled to appear before this Court and another Court concurrently must communicate that fact to the Part Clerk prior to the date of appearance so that counsel's conflicting appearances can be reconciled. Do not ask opposing counsel to advise the Court of conflicting appearances when your case before this Court is called.

- iv. Notice is hereby given that a non-appearance may result in the issuance of a default judgment, dismissal, and or sanctions in the sole and exclusive discretion of the Court.

(b) Who Must Appear

- i. Only counsel or self-represented litigants 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. Please note that failure to comply with this Rule may be treated as a default for purposes of 22 NYCRR § 202.27 and/or may be treated as a failure to appear for purposes of 22 NYCRR § 130.2.1.
- ii. 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.
- iii. In non-matrimonial actions, represented parties need not appear for conferences unless directed to do so by the Court.
- iv. In matrimonial actions, litigants must appear with their counsel for all conferences unless such appearance is expressly excused by the Court.

(c) Conference Adjournments

- i. A request to adjourn a conference shall be made in writing and submitted via NYSCEF. On the main document menu available on NYSCEF, select “ADJOURNMENT OF CONFERENCE – REQUEST”. In the box labeled “Additional Document Information” enter the following: “Request to Adjourn [Date of Scheduled Conference] Conference.” Adjournment requests must be submitted at least three (3) business days in advance of the scheduled conference, absent exigent circumstances.
- ii. 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, three dates as to which all parties are available.
- iii. Where the adjournment sought is not on consent, the requesting party must briefly set forth why the adjournment is necessary, the length of the adjournment and the reason offered by the non-consenting party for his/her lack of consent. Opposing counsel or a self-represented party may succinctly provide their reasons for objecting to the requested adjournment if it is believed 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.

- iv. The Court will advise the parties via NYSCEF Court Notice, whether the requested adjournment has been granted or denied. Requests that are not copied to all other parties will be disregarded. The parties should not assume that the request for adjournment (even if consented to) has been granted. In other words, a request for adjournment should be considered denied unless the Court has specifically granted the request.

(d) Preliminary Conferences

- i. The Court will generally schedule a Preliminary Conference within forty-five (45) days after a Request for Judicial Intervention (RJI) has been filed. The Part Clerk will issue a NYSCEF Court Notice setting forth the date on which the Preliminary Conference will be conducted. The party who files the RJI shall promptly advise all other parties of the Preliminary Conference date in writing.
- ii. 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 strictly abide by and comply with the Court's discovery schedule and deadline(s) order(s).
- iii. No modifications of the dates set by the Court are permitted except by Order of the Court. More specifically, no modification of any dates and or schedules set by the Court shall occur without leave of Court, requested and approved in advance of a due date or deadline.
- iv. 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.
- v. Parties who have a discovery dispute are not to wait until the Compliance Conference to bring such dispute or complaint about non-disclosure and or non-compliance to the Court's attention. Such parties shall comply with the procedures set forth herein under the heading, "Discovery Disputes".

(e) Compliance Conferences

- i. 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 ensure that discovery proceeded as scheduled. The Court may conduct a settlement conference at such time. Counsel must be fully familiar with the action as well as 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 or be available for a conference.

- ii. If the matter is ready for trial, the Court will direct that a Note of Issue be filed. Counsel shall not file a Note of Issue until directed by the Court.
- (f) Discovery Disputes
- i. Counsel (or self-represented litigant) who believes that discovery is not being conducted in accordance with the Court's 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 alleged 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 and or in writing, regarding the claimed failure to engage in discovery and the claimed compliance or reason for noncompliance. The parties are not to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court.
 - ii. 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, via email, Judge Fried's Principal Law Clerk, Attorney Quinn, without contacting the opposing party.
 - iii. Do not make any motion concerning discovery. If counsel cannot resolve the discovery dispute between themselves after a meaningful, good faith effort, then the counsel/self-represented party who believes that discovery is not being conducted in accordance with the Court's Order is to contact the Court in writing via NYSCEF as LETTER/CORRESPONDANCE TO COURT. In the box labeled "Additional Document Information" enter the following: "Request for Assistance in Resolving a Discovery Dispute." Such letter shall 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, NYSCEF Court Notice, or by scheduling a conference.
 - iv. Counsel are expected to abide by the Uniform Rules for the Conduct of Depositions, 22 NYCRR § 221.1, *et seq.*, in particular section 221.2, which prohibits, except in certain instances, directing a witness not to answer a question. Rulings concerning disputed objections may be obtained by calling Judge Fried's Chambers for judicial intervention.
 - v. Discovery demands shall be filed via NYSCEF.

- vi. Responses to discovery demands shall not be filed via NYSCEF. However, an Affidavit or Affirmation of Service reflecting service of responses to discovery demands shall be promptly filed via NYSCEF.
- (g) Settlement Conferences
- i. Per diem attorneys are expressly not permitted to attend Settlement Conferences.
 - ii. The Court strongly encourages counsel and litigants to thoughtfully and meaningfully contemplate amicable dispute resolution.
 - iii. The Court will schedule Settlement Conferences in its discretion. Counsel and self-represented parties are welcome to request in writing or in open court, that the Court schedule a Settlement Conference. Written requests shall be submitted via NYSCEF as LETTER/CORRESPONDANCE TO COURT. In the box labeled “Additional Document Information” enter the following: “Request for Settlement Conference.”
 - iv. Counsel attending a Settlement Conference must be fully familiar with the action and prepared to discuss all factual and legal issues presented by the litigation. Counsel attending a Settlement Conference must have authority to make a settlement demand and or to convey an offer of settlement. Counsel must also be authorized to enter into binding settlements on terms agreeable to the parties and to the Court.
 - v. Counsel are advised that in an effort to foster open settlement discussions, the Court may meet with counsel separately during the Settlement Conference. Counsel are presumed to have consented to the Court doing so unless an objection is affirmatively stated.
 - vi. Not less than three (3) business days before the commencement of a Settlement Conference, Counsel and or self-represented parties shall submit to the Court a confidential settlement memorandum. Settlement memoranda shall be submitted, *ex parte*, via email to Judge Fried’s Confidential Assistant, Mr. Gonzalez. Settlement Memoranda shall not exceed five (5) typed pages and must summarize the perceived strengths and weaknesses of your position. Settlement Memoranda shall also include your demand and or offer. Settlement demands must be accompanied by specific calculations so that the Court has a basis to understand how you have arrived at your demand. You are strongly encouraged to conduct a thorough verdict search before you arrive at your demand. Your Settlement Memorandum should reference the results of your verdict search and you may attach your verdict search results to your Memorandum as an Exhibit. Said Exhibit does not constitute part of the five (5) page limit. No other Exhibits shall be annexed to the Settlement Memorandum (i.e., do not include medical records, copies of contracts, etc.). You should, however, have such other records with you during the Settlement Conference, to the extent necessary to engage in meaningful discussions. Settlement demands shall not be frivolous. Instead, settlement demands must be based upon good faith, reasonableness, law, and equity. Counsel

are presumed to have consented to the *ex parte* submission, and review by the Court, of Settlement Memoranda, unless a written objection is submitted to the Court via NYSCEF prior to the aforesaid three (3) business-day submission deadline.

(h) Pre-Trial Conferences

- i. All trial counsel and all parties shall attend the Pre-Trial Conference.
- ii. Failure to appear at a Pre-Trial Conference may constitute a default or result in dismissal.
- iii. Failure to timely file a Trial Notebook, the requirements of which are stated below, may constitute a default or result in dismissal.

5. MOTIONS, ORDERS TO SHOW CAUSE & TEMPORARY RESTRAINING ORDERS

(a) General Rules

- i. 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.
- ii. In non-matrimonial actions, if you elect to bring an application by Order to Show Cause, you must identify with specificity, within the first page of your 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.
- iii. Except in e-filed cases, proposed Orders to Show Cause submitted for consideration by the Court must include a fax number or e-mail address to permit a conformed copy of the signed Order to be sent to the movant.
- iv. Written applications by Notice of Motion (or Notice of Petition as the case may be) must be made returnable on any Wednesday the Court is in session.
- v. Motion papers are limited to Moving Papers, Opposing Papers, including Cross Motions, and Reply (except that reply papers are not permitted on Orders to Show Cause without advance permission or directive). Sur-Reply papers, including those contained in letter submissions, are not permitted, and will not be considered. There is no Reply permitted to a Cross Motion.
- vi. 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 stating "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, you will be notified.

- vii. Appearances are not required on Motion or Order to Show Cause return dates unless the Court specifically directs otherwise.
- viii. 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. For example, if your moving papers conclude with Exhibit 7, the first Exhibit in your Reply should be labeled Exhibit 8. This Rule applies to papers filed within the same motion sequence only. Exhibit labeling does start anew with each new motion sequence.
- ix. Do not include documents filed on NYSCEF (under the same index number) as an Exhibit. Instead, simply provide citation to the NYSCEF document number you are referencing. For example, “This action was commenced by the filing of a Summons and Complaint (*see*, NYSCEF Doc. No. 1)”.
- x. Multiple documents shall not be grouped together under a single exhibit. Each exhibit shall contain only a single document separately uploaded to NYSCEF. Exhibits shall be specifically referenced in the papers, or they will not be considered. When filing an Exhibit on NYSCEF, exhibit descriptions are mandatory. For example, if Exhibit A is a contract, the “Additional Document Information” box offered on NYSCEF should be utilized to state that Exhibit A is a contract. If multiple exhibits reflect various contracts, for example, the descriptions you enter should be particularized (for example, “August 1, 2017 contract between Plaintiff & Mrs. Smith). When scanning exhibits for upload to NYSCEF, it is your responsibility to ensure that exhibits you present are legible. An exhibit that is illegible, too dark, and or similar, which cannot be reasonably read, will be disregarded.
- xi. If you wish to present a Proposed Order and or Proposed Judgment as part of your moving or opposition papers, you may do so. However, such Proposed Order and or Proposed Judgment shall be filed as an Exhibit. Although the NYSCEF Document Type menu offers Proposed Order and Proposed Judgment filing options, such filing options shall only be utilized when the Court has directed Counsel or a self-represented party to submit a Proposed Order or Proposed Judgment. This paragraph does not apply to Proposed Orders to Show Cause.
- xii. Counsel and self-represented parties shall familiarize themselves with NYSCEF’s redaction rules and protocols before filing any papers or Exhibits via NYSCEF.
- xiii. Motions brought pursuant to CPLR §§3211 or 3212 do not stay discovery.
- xiv. Citations to legal authority must be to the official citations.
- xv. Deposition/Examination Before Trial transcripts included as exhibits must be single sided only. Please do not submit manuscripts.

- xvi. In non-e-filed cases, submit a self-addressed stamped envelope with all moving or opposition papers to allow a copy of the Decision, Order and or Judgment to be mailed to you.
- xvii. Please do not call Chambers to check on the status of a Decision. Any questions regarding the status of a Decision should be submitted via email to Judge Fried's Confidential Assistant, Mr. Gonzalez. The CPLR provides the Court sixty (60) days to decide an application. Inquiries regarding Decision status within sixty days following full submission is discouraged.
- xviii. Although working copies are not required, you may provide working copies for the Court if you wish to do so.
- xix. Absent express permission obtained in advance from the Court, no motion submission – whether a brief, memorandum of law, affidavit or affirmation – shall exceed fifteen (15) pages per document submitted. In the event that a submission is made in violation of this requirement, the Court will only consider the first fifteen pages, with the excess being disregarded.
- xx. All submissions, without exception, shall be:
 - a. Typed utilizing 12-point standard professional fonts;
 - b. Double spaced; and
 - c. In the case of hard copy submissions, securely bound.
 - d. It is recommended that bold, italicized, and or underlined text be employed sparingly and only to point out your most significant and compelling points.

(b) Adjournments of Motions

- i. A request to adjourn a motion return date must be made in writing and submitted via NYSCEF. Ensure that you file your request as a Motion Document (document relating to an existing motion) and under the specific motion sequence number relevant to your request. On the main document menu available, select “ADJOURNMENT OF MOTION – REQUEST”. In the box labeled “Additional Document Information” enter the following: “Request to Adjourn Motion [Not] On Consent.”
- ii. 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.

- iii. No more than three (3) 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 from the original return date.
- iv. Where the motion return date 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 a self-represented party may succinctly provide their reasons for objecting to the requested adjournment if it is believed that his/her position has been stated incorrectly. If filing such an opposition letter, follow the same filing instructions noted above in “i” of this section, but on the main document menu available, select “ADJOURNMENT OF MOTION – OPPOSITION TO REQUEST”. No further communication concerning the request for motion return date 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.
- v. The Court will advise the requesting party by NYSCEF Court Notice whether the requested adjournment has been granted and, if so, the new return date for the motion. Requests that are not copied to all other parties will not be considered. The parties should not assume that the request for adjournment (even if consented to) has been granted unless specifically advised by the Court.

(c) Temporary Restraining Orders

- i. Unless there are extremely unusual circumstances in which significant prejudice (set forth in detail in a supporting affidavit/affirmation) will result, opposing counsel and or self-represented party are to be advised in writing, by fax or email, 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 (“TRO”) is being presented to the Court. Such advance written notice shall clearly state the relief being sought by application for a TRO and provide the reasons why.
- ii. 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.
- iii. Affirmations and Affidavits in Support of an application for a TRO shall clearly state, at the onset of such Affirmation or Affidavit, that 24 hour advance notice was provided as required herein. Further, a copy of such advance written notice shall be annexed to such submission as Exhibit 1 or A, as the case may be. If a true, genuine, and meritorious basis is alleged to exist to dispense with such advance notice, the reasons for same must be clearly and particularly stated at the onset of the corresponding Affirmation or Affidavit in Support.

(d) Discovery Disputes

- i. Do not file discovery-related motions without the express permission of the Court. In lieu of discovery motion practice, it is the Court's practice to make itself available to facilitate the prompt resolution of discovery disputes. Therefore, no discovery motion is to be made by any party unless authorized or directed by the Court. Instead, counsel should abide by the specific procedures set forth above to resolve discovery disputes.

(e) Summary Judgment Motions

- i. Summary Judgment motions must be made within sixty (60) days of the filing of the Note of Issue. Notes of Issue, as stated above, shall not be filed unless the Court has directed such filing.
- ii. If a Summary Judgment motion is made prior to the completion of discovery, the motion does not stay discovery. The parties are to continue to abide by any Order or Notice pertaining to discovery unless otherwise directed by the Court.
- iii. 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]).
- iv. This Court adopts, and expects compliance with the Uniform Rule(s) codified at 22 NYCRR § 202.8-g. Accordingly, Motions for Summary Judgment shall include a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the movant contends there is no genuine issue to be tried. The papers opposing summary judgment shall include a correspondingly numbered submission responding to each numbered paragraph in the statement proffered by the movant. Failure by the opponent to summary judgment to controvert a numbered paragraph in the movant's statement of material facts may constitute an admission. Attorneys and self-represented parties are strongly encouraged to familiarize themselves, fully, with all sections and subparts of the aforesaid rule.

6. JUDGMENTS, DECISIONS & ORDERS

(a) General Rules

- i. 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 via NYSCEF. In so filing a proposed Order for the Court's consideration based upon a Bench Decision, you are required to include a transcript of the proceedings at which the Bench Decision was rendered to be "So Ordered". The Proposed Order (or Judgment) should be filed as the main document on NYSCEF and the corresponding transcript shall be filed as an exhibit under the main document.

- ii. Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice will not be signed unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with 22 NYCRR § 202.48 has been included.

7. SPECIAL RULES REGARDING CONTESTED MATRIMONIAL ACTIONS

(a) Preliminary Conferences

- i. 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.
- ii. The Court expects the parties to agree upon grounds if the action has been brought under DRL § 170(7). If 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. Parties to matrimonial actions are to appear at all matrimonial conferences unless otherwise directed by the Court.

(b) Motions

- i. As noted above, 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.

- ii. 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.
 - iii. Any pendente lite motion which does not include a statement of net worth and calculations showing how the amount of any pendente lite support sought has been calculated, will be rejected and not considered.
- (c) Child Custody/Access Forensic Evaluator

- i. 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.
- ii. Any attorney who wishes to receive a copy of the report must first sign an affirmation that may be obtained from the Part Clerk. A party may review the report but may not possess a copy of the report.
- 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. 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.
- v. Any counsel or party who violates these restrictions is subject to sanctions.

(d) Settlement Conferences

- i. The parties must submit the following documents to the Court at least three (3) business days prior to any 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. 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); and

- b. 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; and
 - c. A child support worksheet, if applicable; and
 - d. Updated statements of net worth (with the latest available supporting documents, such as income tax returns, W-2's, brokerage and retirement plan statements).
- (e) Trials and Hearings
- i. All hearings and trials assigned to this Court should be expected to proceed day-to-day, until conclusion, unless the Court directs otherwise. Please carefully review this Court's Trial Notebook requirement below.

8. UNCONTESTED MATRIMONIAL ACTIONS

(a) General Rules

- i. 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.
- ii. 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).
- iii. Counsel or a party seeking to vacate such 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. The letter application shall also explain, with particularity, why deficiencies were not timely cured.
- iv. 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. Uncontested divorce forms and instructions are available online at nycourts.gov (it is strongly preferred that those submitting uncontested divorces utilize such forms as opposed to forms created by the parties or their counsel).

9. SPECIAL RULES REGARDING FORECLOSURE ACTIONS

(a) Motions

- i. All motions pursuant to this section must include a proposed order which disposes of the motion or application for the Court's signature. Motion templates available at nycourts.gov relevant to residential foreclosure cases where the homeowner has defaulted must be utilized. In filing a proposed Order in connection with the initial filing of a motion, such proposed Order shall be filed as an Exhibit annexed to your motion (do not utilize the "Order (Proposed)" option on the Document Type menu on NYSCEF unless the Court directs you to file a proposed Order once a motion is decided.

(b) Substitution of Referee

- i. Requests to substitute a Referee shall be made to the Court by letter (not by formal motion) and include a proposed order to appoint a substitute referee. File your letter on NYSCEF as "LETTER/CORRESPONDANCE TO COURT" with the proposed order as an Exhibit to such letter.

(c) Discontinuance

- i. Where an agreement has been reached to modify a loan, the parties shall, within thirty (30) days, submit a stipulation discontinuing the action.

(d) Judgment of Foreclosure & Sale

- i. All proposed Judgments of Foreclosure and Sale submitted to the Court shall comply with the form set forth in the motion templates available at nycourts.gov and must include public notice of time and sale will be made in The Journal News (Rockland).
- ii. Referees shall deposit funds in the Referee's name in the Referee's attorney escrow or I.O.L.A. account (or other FDIC-insured fiduciary account) maintained in Rockland County. All monies paid into the Court shall be deposited with the Rockland County Commissioner of Finance. If utilizing a wire transfer, be extremely cautious as fraud involving wire transfers is on the rise and attorneys are often targets of scams. Counsel are strongly encouraged to familiarize themselves with the various bar and ethics opinions relevant to such internet/wire/electronic scams and fraud. Counsel or self-represented parties who mistakenly wire funds to an incorrect and or fraudulent account may be liable.

(e) Surplus Monies Proceeding

- i. A Judgment of Foreclosure and Sale executed by this Court will also set forth a date and time for a post-foreclosure sale 'Surplus Monies' status conference.

- ii. Plaintiff's counsel shall notify the appointed Referee of the Surplus Monies status conference date and time (and provide the Microsoft Teams virtual conference access information to the extent such conference is scheduled to proceed remotely using Microsoft Teams).
- iii. 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.

10. FIDUCIARY APPOINTMENTS

(a) Part 36 Appointments

- i. In order to be eligible for appointments to serve as receiver or other fiduciary appointment, counsel must appear on the Part 36 list promulgated by the Office of Court Administration.

(b) Attorney for the Child(ren)

- i. In order to be eligible for appointment to serve as an attorney for a child, counsel must be a member of the appropriate panel.

(c) Forms

- i. Court evaluators and appointed attorneys must complete and file each of the following forms:
 - a. Notice of Appointment (UCS-830.1);
 - b. Statement of Approved Compensation (UCS-830);
 - c. Certificate of Compliance (UCS 930.3); and
 - d. Affirmation of Legal Services.

11. TRIALS & HEARINGS (NON-MATRIMONIAL)

(a) Subpoenas

- i. 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.

- ii. All subpoenas seeking the production of medical (or other) records subject to HIPAA shall attach a duly executed authorization permitting the release of such records.
- (b) Interpreters
- i. In the event an interpreter is required at trial, counsel shall notify the Part Clerk not less than two (2) weeks prior to the commencement of trial so that timely and appropriate arrangements can be made.
- (c) Personal Injury/Bifurcation
- i. 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
- i. 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 the commencement of jury selection that the alternates will also be designated.
- (e) Jury Contact
- i. Counsel shall not 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 shall not discuss any aspect of the law with the jury. Instruction on the law is for the Court alone.
 - ii. In jury trials, the parties and their attorneys are to stand (if physically able) whenever the jury enters or leaves the courtroom.
 - iii. Non-party witnesses shall not be in the courtroom during the trial except when they are testifying. Any violation of this Rule, to any extent or degree whatsoever, may result in the non-party witness being precluded from offering testimony.
- (f) Reading of Exhibits
- i. 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

- i. Objections to questions at trial are to be limited to the objecting party standing (if physically able) and stating “Objection” and no more than one word or two words as to 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 Videotapes

- i. Any party intending to use a videotape at trial is to submit a copy of the videotape (or other video recording) and transcript of the proceedings, if applicable, to the Court at least two (2) weeks prior to the scheduled trial date to allow the Court to rule on the admissibility of the videotape (or other video recording) and any Objections made relevant to the video recording.

(i) Motions *In Limine*

- i. Written motions *in limine* must be filed via NYSCEF as soon as practicable, but in no event later than the Pre Trial Conference. If you fail to file a motion *in limine* in a timely fashion, the Court may summarily deem the issue waived. Such motions must be made on no less than seven (7) days’ notice to opposing counsel and/or self-represented parties. Motions *in limine* must be brought by Order to Show Cause.

(j) Trial Notebooks

- i. Trial Notebooks are, without exception, mandatory and must specifically and particularly follow the guidelines set forth below. Do not deviate from the format of the below requirements. Non-compliance with the following may result in sanctions, preclusion, default, and or other penalties in the discretion of the Court.
- ii. Trial Notebooks are due not less than five (5) business days prior to the Pre-Trial Conference.
- iii. Hard copies of Trial Notebooks shall be filed at the Office of the Supreme Court Clerk on the second floor of the Rockland County Courthouse. Hard copies of Trial Notebooks shall also, on the day of or before filing with the Clerk, be delivered to all Counsel and self-represented parties. Affidavits of Service reflecting service of the Trial Notebook shall be filed via NYSCEF. The Trial Notebook itself shall not be filed via NYSCEF.
- iv. 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. The first page of the Trial Notebook, prior to the first tab, shall be an index identifying all contents of the Trial Notebook (i.e., Tab 7: Dr. Smith Medical Records Regarding Plaintiff).

- v. The first tabbed section of the Trial Notebook shall be your proposed witness list. The witness list shall:
- a. Identify the name of the proposed witness;
 - b. Provide the address of the proposed witness;
 - c. Provide the telephone and or email address of the proposed witness; and
 - d. Include a brief statement, or offer of proof, as to why you intend to call such witness. The brief statement shall not be generalized in nature.

NOTE: Witnesses who are not identified on the witness list may not be called to testify absent an adequate explanation as to the failure to identify the witness, and only with Court approval.

- vi. The second tabbed section of the Trial Notebook shall contain your proposed exhibit list. The exhibit list shall:
- a. Enumerate all exhibits anticipated to be offered into evidence at trial; and
 - b. Provide a brief description regarding each specific exhibit.
 - c. Exhibits intended solely for impeachment and or rebuttal purposes need not be included.

NOTE: Exhibits which are not identified on the exhibit list may not be admitted into evidence absent an adequate explanation as to the failure to identify such proposed exhibit, and only with Court approval.

- vii. Commencing with the third tabbed section of the Trial Notebook, and continuing for as many tabs as may be necessary, include pre-marked proposed exhibits for each exhibit identified on your exhibit list. For purposes of pre-marking, Plaintiff shall use numbers and Defendant shall use letters. Each proposed pre-marked exhibit shall be wholly contained within its own tabbed section, and shall accurately correlate to the index preceding the first tabbed section, as noted above.

- viii. Tabbed sections of the Trial Notebook, subsequent to the last proposed pre-marked exhibit shall include the following, in this order:
- a. Marked pleadings in accordance with CPLR § 4012, including copies of any exhibits incorporated by reference in the pleadings.
 - b. A copy of all Bills of Particulars (including Supplemental and/or Amended Bills of Particulars).
 - c. A copy of all medical narrative reports exchanged by the parties.
 - d. A copy of all expert disclosures served pursuant to CPLR § 3101(d).
 - e. A copy of all prior decisions or orders on motions issued in the case.

- f. Memoranda of law concerning any procedural, evidentiary, or other legal issue which the parties anticipate the Court will need to determine.
- g. Requests to charge:
 - i. A complete list of requested jury charges drawn from the Pattern Jury Instructions (“PJI”) of the then-current year. Requests to charge must also be submitted in writing and by email in Microsoft Word format to the Court’s Principal Law Clerk, Attorney Quinn. If you seek a deviation from or addition to the express language of the PJI, the hard copy and electronic submissions of same shall highlight such proposed revisions and or additions.

(k) The Rules of Evidence

- i. The Court expects that Counsel and self-represented litigants will comply with the rules of evidence. The Unified Court System provides a guide relevant to said rules, which may be found online at:

www.nycourts.gov/JUDGES/evidence/

(l) Witness Scheduling

- i. Fact witnesses and expert witnesses should be promptly advised regarding scheduled trial dates. Absent unanticipated, exigent, and or emergency circumstances, last minute claims of witness unavailability will not be accommodated. All witnesses must be on one-hour standby notice and reachable by telephone at all times.

(m) Good Faith Conference

- i. Prior to the Pre-Trial Conference, all Counsel and self-represented parties shall meet and confer in good faith with the goal of resolving disputes pertaining to evidence admissibility.

12. SETTLED, DISCONTINUED & STAYED CASES

(a) General Rules

- i. Counsel must notify the Part Clerk by email of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. Additionally, a signed Stipulation of Discontinuance shall be promptly filed.
- ii. In those cases where a party is obligated to make payments over time, the parties shall file a Stipulation of Discontinuance without prejudice. The Court will not allow counsel to hold the Stipulation of Discontinuance until all payments are made.

- iii. If a case is stayed by another Court (i.e., by virtue of a bankruptcy proceeding), Counsel shall immediately e-file a letter via NYSCEF advising the Court of such stay. The letter (filed as “LETTER/CORRESPONDANCE TO COURT”) that you e-file shall be the main document and in the description box, enter the following: “Letter Regarding Stay Issued by Another Court.” Under the main document, upload, as an Exhibit to your letter, a copy of the relevant stay order. When Counsel is informed that such a stay is lifted, follow the same procedure above except enter the following description regarding your letter: Letter Regarding Lifted Stay Issued by Another Court.”

13. SUBSTITUTION & DISCHARGE OF ATTORNEYS

(a) General Rules

- i. Except in cases where an attorney is replaced by another attorney on consent pursuant to a duly executed and filed, CPLR compliant, Consent to Change Attorney form, any change or withdrawal of counsel must be approved by the Court. Such applications shall be brought by Order to Show Cause.
- ii. 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). The use of a “Consent to Change Attorney” form to withdraw where a party becomes self-represented is specifically prohibited.
- iii. Applications pursuant to this section shall specifically identify the particular Rules of Professional Conduct which the movant relies upon as the basis for the application.
- iv. Attorneys shall be mindful of client-attorney confidentiality and not to prejudice his/her clients in their moving papers. If an attorney believes that the facts and circumstances supporting the application for discharge would be prejudicial to his/her client, the movant may request leave, in the Affirmation in Support, for in-camera review of such facts and circumstances.
- v. Applications pursuant to this section shall request a CPLR § 321 stay of proceedings for the Court’s consideration.
- vi. Attorneys of Record shall continue zealous representation until such time that an Order discharging counsel issues.

14. CIVILITY

(a) General Rule

- i. Despite the adversarial nature of litigation, this Court requires civility and courteousness. Counsel and parties are encouraged to refrain from histrionics, showmanship, gamesmanship and discourteousness. It is the Court's expectation that the Court, Court professionals, and all Court users will be treated respectfully. Discourteous behavior, including but not limited to interruptions, outbursts, or ad hominem attacks, will not be tolerated and may be deemed contemptuous and or sanctionable.

15. LANGUAGE ACCESS

(a) General Rule

- i. Language access is a critical element of effective, meaningful, and robust access to justice.
- ii. If any party requires the assistance of an interpreter, please notify the Part Clerk at least 48 hours prior to any scheduled appearance and or conference so that appropriate and timely accommodations can be made.
- iii. Only certified interpreters provided by the Unified Court System may be used in court proceedings. Please do not bring your own interpreters to Court for use during court proceedings.

16. RESPECT FOR GENDER PRONOUN USAGE

(a) General Rule

- i. This Court is a forum in which all will be respected. The Court aspires to properly address all Court users by their proper pronouns. Court users are invited to advise the Court regarding proper pronoun usage during any Court proceeding. Alternatively, you are welcome to communicate pronoun preference via email to the Judge's Confidential Assistant, Mr. Gonzalez.

17. DISABILITY ACCOMODATIONS

(a) General Rule

- h. The New York State Unified Court System is dedicated to ensuring that all individuals with disabilities have equal and full access to the judicial system. This Court is committed to making sure that our services, programs and activities are accessible to all Court users. In the event that any accommodations are required at any time during any matters before the Court, counsel or self-represented litigants are encouraged and welcome to notify the Judge's Confidential Assistant, Mr. Gonzalez, so that timely and appropriate arrangements may be made.