

SUPREME COURT OF THE STATE OF NEW YORK
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**INDIVIDUAL PART RULES OF
HONORABLE STEVEN I. MILLIGRAM**

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These rules are in addition to the Uniform Rules for New York State Trial Courts and the Local Rules of Court. Failure to comply with any rules or orders of this Court may result in preclusion and/or costs without further notice. It is incumbent upon all parties appearing before this Court to insure their compliance with these rules.

I. E-FILING

- A.** All parties should familiarize themselves with the statewide E-Filing Rules (22 NYCRR 202.5b and 202.5bb). General questions about e-filing should be addressed to the E-Filing Resource Center at 646-386-3033 or efile@nycourts.gov. Specific questions relating to local procedures should be addressed to the Chief Clerk's Office (845) 476-3429.
- B.** Except for an exempt party as defined in 22 NYCRR 202.5bb, all submissions to the Court, including Notices of Motions and Orders to Show Cause and attachments; opposition and reply papers to Motions and Orders to Show Cause, including attachments; and proposed orders and judgments shall be filed and served by electronic means.
- C.** Parties seeking to file and serve papers in hard copy pursuant to statute or court order must include a copy of the Notice of Hard Copy Submission required by 22 NYCRR 202.5b(d)(1)(iii). The form is available at www.nycourts.gov/efile
- D.** Letters to the Court should be e-filed. Please do not send twice.
- E.** One working hard copy of a Motion, Order to Show Cause, supporting, opposition and reply affirmations and/or affidavits shall be sent directly to chambers within five days of e-filing of the same. **EXHIBITS SHALL NOT BE INCLUDED.**
- F.** Working copies must include a copy of the NYSCEF Confirmation Notice fastened to the top of the submission. Papers not including the Confirmation Notice are subject to rejection.

II. Communications with the Court

A. Correspondence:

1. All Correspondence to the Court shall, without exception, be copied to all counsel, including Attorneys for Children or Guardians Ad Litem where appropriate, and/or to any self-represented parties who have appeared in the action. Correspondence between counsel and/or self-represented parties shall not be copied to the Court, unless the Court directs otherwise.
2. All correspondence must bear **the case name and Index Number of the action** and indicate that a copy of the correspondence was sent to all other counsel and/or self-represented litigant(s).
3. Correspondence should be either faxed, e-filed or mailed. Second copies are not necessary.
4. Issues requiring Court intervention should be addressed by motion or request for a conference with the Court.
5. Telephone conferences are generally discouraged, but will be held at the discretion of the court.

B. Telephone Calls: Except as set forth below, telephone calls to Court staff should occur only in situations requiring immediate attention and that cannot otherwise be addressed by correspondence.

C. Fax transmissions: Fax cover sheet must identify the case name, index number, and number of pages attached. No fax should exceed 5 pages in length, including cover sheet, without consent of the Court.

D. E-Mail: Unless specifically approved by the Court in advance, the Court does not accept legal papers or correspondence of any kind by e-mail transmission.

E. Scheduling: Counsel/parties should address questions about scheduling appearances or adjourning appearances to the Part Clerk, Lynne Keating, at (845) 762-5879. All adjournment requests **must be in writing and on consent, when practicable**. Please also see Section III “Calendar Call & Conferences”, (F) Adjournment of Conferences.

F. Ex-parte Communications: Ex-parte communications with the Court are strictly prohibited, except where an Order to Show Cause is submitted for signature, or upon consent of all parties during settlement negotiations.

III. Calendar Call & Conferences

A. General Rules:

1. The Court’s regular calendar is called daily at 9:30 a.m. The Court will

attempt to accommodate counsel by calling their case when the case is ready. Only counsel (or self-represented parties) who are fully familiar with a case, its status, and all pending issues in that case are to appear for court appearances. Any appearance by counsel or self-represented parties who are not fully familiar with the case, thereby necessitating adjournments or other delay, may face the imposition of costs incurred by the opposing party. **Counsel must be fully familiar with the matter(s) on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their clients.** Counsel must be on time for all scheduled appearances and must bring adequate material to allow meaningful discussion of unresolved issues to each Court appearance. Attorneys appearing “of counsel” to an attorney of record, and parties appearing pro-se, are held to the same requirements.

2. Attorneys in matrimonial matters must appear with their clients for all conferences unless excused by the Court.

B. Preliminary Conference:

1. All matters other than Matrimonial Matters:

- a) The Part Clerk will notify the party filing the RJI the date on which the Preliminary Conference will be conducted. The party who files the RJI shall give written notice to all other parties of the conference date and shall fax a copy of such notice to the Part Clerk.
- b) Counsel and parties are referred to 22 NYCRR 202.12(c) and/or 202.16 for specific requirements concerning the conduct of the Preliminary Conference and the matters to be considered.
- c) Once the parties are notified of the date for the preliminary conference, both counsel and/or self-represented parties are expected to use their best efforts to serve and/or respond to duly served discovery demands in advance of the preliminary conference to the extent possible.

2. In matrimonial matters, the following documents shall be provided to the Court prior to or at the preliminary conference:

- a) Plaintiff
 - (1) Pleadings (summons and Complaint; Answer; Counterclaim; Reply to Counterclaim)
 - (2) Family Court, County Court and/or Justice Court Orders
 - (3) Net Worth Statement
 - (4) State & Federal tax returns filed for the preceding three tax years.
 - (5) Three current pay stubs
 - (6) Copy of signed retainer agreement.
- b) Defendant
 - (1) Net Worth Statement

- (2) State & Federal tax returns filed for the preceding three tax years.
- (3) Three current pay stubs
- (4) Copy of signed retainer agreement.

3. Foreclosure Actions:

- a) Contested: When a contested matter is released from the Foreclosure Settlement Conference Part, the Court shall notify the plaintiff of the Preliminary Conference date, and the plaintiff shall notify all appearing parties of the conference date. At the Preliminary Conference, the Court will direct dates for discovery and for the filing of motions.
- b) Uncontested (default): When an uncontested matter is released from the Foreclosure Settlement Conference Part, plaintiff shall file its Note of Issue within ten days and its application for an Order of Reference within 30 days. If either the Note of Issue or the application for Order of Reference are not timely filed, an appearance shall be scheduled, and the action shall be subject to dismissal without prejudice.

C. Discovery Disputes:

1. All Discovery disputes should be addressed between parties prior to the Compliance Conference as required by the Uniform Rules of the Court 22 NYCRR 202.7
2. If counsel cannot resolve the issue(s) between themselves, after a good faith effort, the Part Clerk should be contacted for scheduling of a court conference. The parties are not to copy the Court on correspondence between counsel concerning discovery issues unless specifically requested to do so by the Court.

D. Status and Compliance Conferences: The Court will conduct status conferences as needed, as requested and as indicated in the Court's discretion to ensure that the matter is proceeding in an orderly, prompt, timely and efficient manner. The Court will conduct a Compliance Conference after the date by which disclosure was to be completed, as directed at the Preliminary Conference.

E. Settlement Conference:

1. A settlement conference will be held no less than one month prior to the scheduled trial date. Settlement conferences shall be scheduled at a time convenient to the attorneys, parties, and the Court. Counsel attending the Settlement Conference must be fully familiar with the action and authorized to enter settlement discussions.
2. In all personnel injury, wrongful death, and/or medical malpractice

actions; the plaintiff **must** be personally present in Court unless the plaintiff's presence is specifically excused by the Court.

3. If an insurance carrier is providing a defense and/or indemnification for any defendant in any personnel injury, wrongful death, and/or medical malpractice action, a claims adjuster or representative with full authority to participate meaningfully in settlement discussions must be present in person or available by phone.
4. In all other matters, unless specifically excused by the Court parties, must be personally present in Court at the Settlement Conference.

- F. Adjournment of Conferences:** Any request for an adjournment of a conference must be made in writing, by fax or e-file, to the Part Clerk (copied to all counsel and/or pro se parties) no later than 3:00 p.m. the day prior to the scheduled conference. All requests must set forth:
1. The reason(s) why an adjournment is necessary;
 2. Whether the opposing party(ies) consents/objects to the application; and
 3. At least three proposed adjourned dates for the conference to be rescheduled to within two weeks of the adjourned date. All dates shall be on consent or on notice to all counsel and/or parties.
 4. The Part Clerk will advise the party who submitted the written request of the grant or the denial of the request. In non-e-filed cases, that party shall immediately give written notice to all counsel and/or parties, and, if the adjournment is granted, of the new date, copying the Court on such notice. If a conference is scheduled and a motion is pending, counsel for the moving party shall contact the Park Clerk for direction on whether to appear.
 5. **NOTE: A request for an adjournment, even if on consent of all parties, is NOT effective unless and until approved by the Court.**

IV. Motions/Orders to Show Cause/Temporary Restraining Orders

A. General Rules:

1. Notice of Motion: Written applications by Notice of Motion may be made returnable on any day. Return and service dates and method of service of Orders to Show Cause shall be designated by the Court and a conformed copy of the signed order will be faxed or e-filed to the moving attorney.
2. Motions for Summary Judgment: Absent Court permission, motions for summary judgment are to be submitted and/or e-filed within 60 days of filing of the note of issue.
3. Please note that in accordance with the discretionary authority provided by

Civil Practice Law & Rules §3214(b), discovery is NOT stayed during the pendency of any summary judgment motion, unless the Court orders otherwise.

4. Counsel shall **IMMEDIATELY** notify the Court when it becomes unnecessary to decide a motion. **FAILURE TO DO SO MAY RESULT IN SANCTIONS.**
5. The Court **DOES NOT** permit litigation by correspondence. Correspondence should not be submitted, and if submitted will not be considered in determining motions, etc.

B. Motion Papers

1. All motion papers and Orders to Show Cause (OTSC) must be typewritten, double-spaced, securely bound and entirely legible. If more than one inch thick, please use a paper fastener in lieu of stapling.
2. All papers, including exhibits, submitted in connection with a motion or OTSC shall bear page numbers.
3. All exhibits must be legible and labeled with external tab markings.
4. Citations to legal authority must use official citations.
5. Citations to exhibits shall include the applicable page number.
6. **Motions not in conformity with these rules will not be considered.**
7. All counsel or parties seeking a conformed copy of a decision/order shall submit a self-addressed, stamped envelope with their moving or opposition papers.

C. Temporary Restraining Order: When seeking a Temporary Restraining Order (other than statutory automatic restraints), the Order to Show Cause shall indicate the request for a TRO on the face page in bold letters and shall include proof of advance notice to the adverse party, or an explanation of why such notice is inappropriate. Except in emergent circumstances, which should be explained, advance notice is deemed to mean at least 24 hours' notice.

D. Sur Replies: Sur-replies and replies to cross-motions **are not** permitted without express leave of the Court. If such papers are submitted without leave, they will not be considered.

E. Matrimonial Actions:

1. Each *pendente lite* motion must include:
 - a) Statutory calculation for guideline amount of temporary maintenance pursuant to Domestic Relations Law §236 part B(5-a)(c).
 - b) Current net worth statement.
2. Each motion or order to show cause seeking modification of support must

include a current net worth statement. The motion or order to show cause will be rejected if not included.

F. Oral Argument:

1. Except for motions for contempt, there will be no oral argument on any motion or Order to Show Cause unless directed by the Court.
2. No appearances are generally required on the return dates of motions or Orders to Show Cause.
3. Parties seeking oral argument of a motion or Order to Show Cause shall indicate, in bold print above the Index Number on the first page of the papers, "Oral Argument Requested." If granted, the party who requested oral argument will be notified of the date and time for argument and shall inform all other attorneys. The Court shall be copied on the notification.

G. Adjournment of Motions:

1. So long as the matter is not scheduled for trial, motions may be adjourned, on consent, from the original return date to any mutually agreeable date within four weeks of the original. Any request for a subsequent adjournment on consent must state the current adjourned date and the new return date agreed upon. If adjournment is granted, the Part Clerk will advise the party who submitted the request of the new return date. That party will immediately advise all other parties in writing; the Court shall be copied on the notice.
2. Unless the Part Clerk has conveyed that the matter has been adjourned, the parties should not assume that the request has been granted.
3. No adjournments shall be granted if the new return date falls within 90 days of the trial date.

V. Decisions and Orders

- A. Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice must include an Affidavit of Service and Notice of Settlement for a designated date in accordance with 22 NYCRR 202.48. Orders, etc. based on a stipulation placed on the record shall incorporate a copy of the transcript.
- B. Qualified Domestic Relations Orders submitted for signature shall include a copy of the Judgment of Divorce and relevant portions of the Stipulation of Settlement, or transcript, if any.
- C. Orders containing a child support provision, including judgments of divorce and opting-out agreements, must include, on the face page, the modification notice language required by Domestic Relations Law §236-b[7]. Any support order directing payment through the support collection must include the SCU notice required by Domestic Relations Law §240-c[5][b].

VI. Pre-Trial and Trial Matters

A. Pre-Trial Filings:

1. An original Note of Issue shall be filed with the County Clerk, with a copy sent directly to Chambers.
2. Exhibits should be marked prior to commencement of trial and counsel should confer and stipulate to those exhibits that can be admitted without objection.
3. All motions *in limine* must be submitted to the Court and served upon adversary counsel not later than ten days before the trial date. Opposing papers shall be submitted and served not later than five days before the trial date.
4. In matrimonial matters, forensic Mental Health evaluation reports are released to attorneys upon execution of the Court's standard release form. Such reports may be reviewed with litigants, in the presence of attorneys, but in no circumstances may copies be given to litigants. *Pro se* litigants may review copies of the report in the Courtroom only.
5. In the event an attorney is discharged or otherwise terminates representation of a client during the pendency of an action, all copies of evaluation reports shall be returned to the Court by the original attorney; and **shall not** be transferred to substitute counsel or a *pro se* litigant.
6. In matrimonial matters, no later than one week prior to trial, the Court is to be provided with: (a) statements of proposed disposition as required by 22 NYCRR 202.16(h); (b) updated Net Worth Statements (with the latest available supporting documents, such as income tax returns, W-2's, brokerage and retirement plan statements); and (c) any forensic reports, appraisals or evaluations conducted in the matter, unless previously provided.
7. Bifurcation. Trials of personal injury actions involving issues of both liability and damages shall be bifurcated in accordance with *Uniform Rule 202.42* and all subdivisions thereof. Trials on damages will immediately or as soon thereafter as possible follow the determination of liability and will be before the same jury that determined liability. If there is a compelling reason for both issues to be tried together, counsel **must** notify the Court as soon as possible, and **in no event** later than the filing of the Note of Issue and the scheduling of a trial date.

- B. Trial Notebook: No later than five (5) business days prior to the scheduled trial date**, counsel shall each provide to the other (one copy) and submit to the Court (two copies) a trial notebook which shall consist of:
1. Marked pleadings and verified Bill of Particulars in accordance with CPLR 4012;
 2. Statement of relevant facts stating separately those that are not in dispute and those that are.
 3. Pre-trial memorandum addressing any known or anticipated disputed legal issues that must be determined by the court;
 4. A list of all potential witnesses for each party;
 5. A list of all exhibits to be offered into evidence at trial by each party with a brief description of each exhibit (**There is no need to annex copies of medical records to the trial notebook**);
 6. Preliminary requests to charge. The charges will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted simultaneously with service on all adversaries. Unless counsel seek a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need be submitted. Where deviations or additions are requested, the full text of such requests must be submitted in writing together with any supporting authority. **An electronic version of PJI variations must be submitted either on CD-ROM or via e-mail in Microsoft Word format. E-mails are to be directed to lkeating@nycourts.gov.** A charge conference will be held between the Court and the parties in order to finalize any of the proposed jury charges. Said conference will be held at an appropriate time during the trial.
 7. In jury trials a proposed joint verdict sheet is to be typed in final form for presentation to the jury. **An electronic version of the verdict sheet(s) must be submitted either on CD-ROM or via e-mail in Microsoft Word format. E-mails are to be directed to lkeating@nycourts.gov.** If agreement cannot be reached on a joint submission, then each side shall present a proposed verdict sheet, along with a written explanation as to why agreement on the verdict sheet was not reached.
 8. The court may, in its discretion and for good cause shown, relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justifies such relief. Such a request will be entertained only at the pre-trial conference. **The failure to submit a trial notebook within the time deadlines previously noted may result in the Court's disregard of the non-compliant party's requests to charge and verdict sheet, monetary sanctions or dismissal/default judgment.**

C. Subpoenas:

1. Proof of compliance with CPLR Sections 2306 and 2307 for subpoenas directed to municipal entities must be provided when submitting the subpoena for signature. No subpoena will be “so ordered” without compliance.
2. All subpoenas seeking the production of records subject to the HIPAA Rules shall attach a duly executed authorization permitting the release of such records.

D. Interpreters; Other Special Accommodations:

1. Counsel shall notify the Court and/or Part Clerk as soon as possible, but not later than the time of the Settlement Conference in the event a translator or interpreter is required at trial.
2. If a party or a witness requires some accommodation, such as an assisted hearing device, counsel shall notify the Court as soon as possible.

VII. Settled and Discontinued Cases: Counsel must notify the Court by fax, or e-filing where appropriate, of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. A copy of the signed Stipulation of Discontinuance which has (or will be) submitted to the County Clerk shall be submitted to the Part Clerk so that the matter may be marked disposed.

So Ordered: /s/ Hon. Steven I. Milligram, J.S.C.; January __, 2020