

JUSTICE GERALD E. LOEHR, J.S.C.

Rockland County Supreme Court

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New City, New York 10956

Courtroom 1

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The Civil Part of Gerald E. Loehr, Justice of the Supreme Court, Rockland County, shall be conducted pursuant to the following information, practices, rules and procedures:

Counsel must be fully familiar with the Uniform Civil Rules for the Supreme Court 22 NYCRR Part 202.

E-Filing Rules and Protocol

All parties should familiarize themselves with the statewide [E-Filing Rules](#) (Uniform Rule §§ 202.5-b and 202.5-bb – available at www.nycourts.gov/efile) and the [Rockland County E-Filing Protocol](#).

General questions about e-filing should be addressed to the E-Filing Resource Center at 646 386 3033 or efile@courts.state.ny.us

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

Electronic Filing

All non-exempt actions in Part I, Justice Gerald E. Loehr are to be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, must be electronically filed.

Working Copies

See Uniform Rule § 202.5-b(d)(4).

This Part requires working copies for all electronic submissions.

Working copies shall be delivered to Chambers, Rm 438.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the [front] cover page of the submission and comply with other requirements set forth in the Westchester County Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be delivered no later than noon on the first business day following the electronic filing of the document on the NYSCEF site.

Hard Copy Submissions

Part will reject any hard copy submissions in e-filed cases unless those submissions bear the Notice of Hard Copy Submission – E-Filed Case required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

Pleadings

Within ten (10) business days of notification of assignment to this part Plaintiff's counsel and counsel for third party plaintiff's must furnish a set of marked pleadings; a copy of the Bill of Particulars must also be furnished at that time or within ten (10) days of service.

Scheduling and Letters to the Court

Counsel/parties should address questions about scheduling appearances or adjourning appearances to the Part Clerk, Carole Slattery, (including the case name, index number, date of next appearance and the post office and email addresses and phone and fax numbers of all counsel). All letters, on any subject, to the Court must be (1) copied to all counsel; (2) contain email address for all counsel; and (3) state the next appearance date. Letters not complying with these rules will be disregarded.

Appearances

Adjournments of appearances are not granted unless (1) there is an affirmation of prior engagement in full compliance with 22 NYCRR § 125.1, and it must include the date the conflicting appearance was scheduled; or (2) there are exceptional circumstances.

Adjournment requests made less than two Court days before a schedule set by the Court will not be considered absent exceptional circumstances. In matrimonial actions, the Court does not cancel appearances where the parties have signed a stipulation of settlement but have not yet submitted the appropriate divorce papers.

Do not telephone the Court to determine the status of an adjournment request; the Court will respond as soon as possible. If you do not receive a response, it means the adjournment was not granted. Note that the party requesting the adjournment is responsible for notifying all parties of the status of the adjournment.

Motions

Prior to making any motion, with the exception of dispositive motions made after the note of issue is filed, movant shall notify the Court in writing, with a copy to all parties, setting forth the relief sought and the basis for the relief. The Court shall then schedule a conference call with counsel or a Court conference date. This procedure does not preclude the moving party from making a motion, but provides the Court with an opportunity to resolve the dispute giving rise to the motion without the need for a formal written application. Failing resolution of the dispute, the party seeking relief may proceed with the motion.

Submission of Papers

All counter-orders and counter-judgments must be submitted with a cover letter and a “red-lined” copy highlighting the language which differs from that of the originally submitted order or judgment. See 22 NYCRR § 202.48.

All proposed orders or other documents for the Judge’s signature must include a signature line with the Honorable Gerald E. Loehr pre-printed.

Proposed orders must include any transcript or other evidence that the Judge has directed the submission of such order.

For matrimonial actions, judgment documents must be submitted within 60 days of the date an action is marked settled or a decision is rendered, unless otherwise directed by the Court. Failure to submit judgment documents within 60 days (absent permission of the Court) will result in the action being deemed abandoned pursuant to 22 NYCRR § 202.48 and may be the subject of a conditional order of dismissal establishing a date on which the action will be dismissed as abandoned unless papers are received.

Unless an exception is made by the Court, motions are returnable in the Part I, on Fridays at 9:30 a.m. Motions made on any other day will be adjourned by the Court to the next regular motion calendar. Courtesy copies of motions are not required. Sur-replies will not be considered without prior permission of the Court. No papers will be considered after the return date of the motion.

Legal arguments and citations belong in memorandum of law, not affidavits or affirmations.

Appearances are not required. Oral argument may be requested by noting "Oral Argument Requested" immediately over the index number on the Notice of Motion. If the Court, in its discretion, requires such argument, the movant's attorney will be so advised and will be required to notify all parties.

Self-addressed, stamped envelopes must be submitted with all motions for a return decision. Orders and Judgments must also have self-addressed, stamped envelopes and a copy to be conformed if one is requested.

Adjournments

a) On consent - The clerk of the part is to be advised by telephone, followed by a letter, that the motion is adjourned on consent. A copy of the letter is to be sent to all parties. No more than two adjournments, for an aggregate period of thirty (30) days, without permission of the Court, will be granted. The co-operation of counsel is urged.

b) Opposed - The application must be made in person on the return date of the motion. Alternatively, the application for adjournment may be made via a conference telephone call with all interested parties and the law clerk. The requesting party must advise all parties that the application will be made. Any party wishing to be heard in opposition to the adjournment must appear.

Motion Practice

A. Papers must be received by the Court on or before the date and time set forth in the Order to Show Cause or return date in the Notice of Motion in order to be considered. Late papers will be rejected unless good cause is shown and there is not prejudice caused by the delay.

Motions are on submission, unless the Court specifically requests oral argument.

B. The Court does NOT hold motions in abeyance. Motions must be formally withdrawn by letter.

C. The index number shall be clearly shown to the right of the caption of the matter on all litigation papers. The next scheduled appearance date, if any, must also be listed. All other papers and related correspondence must include the same.

D. Reply papers are to respond to issues raised in opposition to the motion. New issues raised in reply papers shall not be considered without specific permission from the Court. Cross-motions which seek only the denial of the relief in the original motion will not be recognized as motions with respect to which a reply may be submitted.

E. Sur-replies shall not be considered without specific permission from the Court. Permission is granted only upon a showing of exceptional circumstances.

F. On motions pursuant to CPLR § 2221, movant must submit copies of all papers on the prior motion. Failure to comply with this provision shall result in the automatic denial of the motion unless another party submits the papers to the Court.

G. Letters sent to the Court following submission of motions will not be considered.

H. No motions regarding discovery shall be made without first contacting the Court. All motions, whether discovery or otherwise, must provide proof that the parties or counsel have attempted to resolve the issue before making the motion.

I. All cited authorities that are not available on Westlaw must be submitted to the Court.

J. Affidavits of service must be filed at least two days before the return date unless the Court indicates a different date in an Order to Show Cause. The Court will deny any motion where it has received neither opposition nor an affidavit of service.

K. Motions for summary judgment shall be accompanied by a Statement of Undisputed Facts. A motion for summary judgment which lacks this Statement may be rejected.

L. Orders to Show Cause

In addition to the motion rules, the following provisions are applicable to orders to show cause:

If a requested order has specific urgency, counsel should make the Clerk aware of the issue. The Court will use every effort to address all orders as soon as is practical after their receipt. If a proposed order to show cause contains a request for a temporary order of protection or other emergency ex parte relief, counsel should advise the Part Clerk and should be prepared, with his or her client, for a hearing at such time as the Court will direct. Counsel should not appear without permission from the Court.

If an order to show cause requests temporary relief, counsel must comply with the provisions of 22 NYCRR § 202.7(f). If counsel has complied with this provision, the order to show cause must clearly specify such, either in a separate affirmation clearly marked with a tab, or an accompanying letter to the Court. Failure to comply with this section will result in all temporary relief being struck. Note that compliance with this section does not ensure that temporary relief will be granted.

Discovery

Counsel must consult with one another in a good faith effort to resolve all disclosure disputes before seeking judicial intervention. See Uniform Rule 202.7. If counsel are unable to resolve a disclosure dispute in this manner, before any formal motion is made, the procedures set forth above must be followed.

The Court will not allow discovery after the dates set forth in the Preliminary Conference Order without good cause show for noncompliance.

Subpoenaed documents may only be reviewed after prior arrangements have been made with the Part Clerk.

Rulings may be given over the telephone regarding disputes which may arise during an Examination Before Trial. However, Counsel should hold the specific issue in abeyance and continue with the balance of the Examination Before Trial if it is possible to do so.

Conferences

Preliminary Conference

A. Civil Actions: The preliminary conference will be held in accordance with, and attorneys must be prepared to comply with, 22 NYCRR § 202.12. In addition, attorneys must be prepared to advise the Court as to any outstanding motions and any other issues they expect to require the Courts's involvement.

B. Matrimonial Actions: The preliminary conference will be held in accordance with, and attorneys must be prepared to comply with 22 NYCRR § 202.16(f). In addition, attorneys must be prepared to advise the Court as to any outstanding motions and any other issues they expect to require the Court's involvement. The parties will be expected to comply with DRL § 236-B(4).

Trial Readiness/Settlement Conference - Counsel must be prepared to discuss the potential for settlement of the case at the trial readiness/settlement conference. Counsel should be prepared to place upon the record or provide a written stipulation as to all matters that are resolved.

A Note of Issue must be filed within 20 days of the Trial Readiness conference, and a file-stamped copy submitted to the Part Clerk. Sanctions, including the striking of pleadings or dismissal of the action, must be imposed for failure to do so.

Pre-Trial/Settlement Conference - Counsel must be fully prepared to discuss settlement. Sanctions may be imposed upon counsel who are not prepared for the conference. In the event counsel believe that there are no prospects to settle the case, they should be prepared to explain their reasoning.

At the Pre-Trial Conference, counsel should bring with them:

1) an exhibit list. The attorneys are to pre-mark their exhibits. Only those items which are received in evidence will be marked by the reporter. The reported is to be provided with an exhibit list. Copies of all exhibits intended to be offered must be presented to the Court in a notebook with a table of contents, with the plaintiff's exhibits numbered and the defendant's exhibits lettered in the order in which they are generally intended to be used. Counsel must be prepared to argue to the Court any exhibits that are not agreed upon;

2) a list of witnesses, including the address of each witness and the general subject matter of his or her testimony;

- 3) a joint statement of the relevant facts that are not in dispute;
- 4) in matrimonial actions, a joint statement of proposed disposition. 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. The Court will NOT accept separate statements of proposed disposition;
- 5) in matrimonial actions, a child support worksheet if applicable;
- 6) in matrimonial actions, updated statements of net worth;
- 7) proof of filing of the Note of Issue;
- 8) marked pleadings.

Note that expert reports must comply with CPLR § 3101 and, if applicable, 22 NYCRR § 202.16(g). Failure to exchange and file the reports not later than 60 days prior to the trial date (and replies not later than 30 days before the trial date) may, in the Court's discretion, preclude the use of the expert.

Electronic Discovery

Prior to the status conference, counsel shall confer with regard to anticipated electronic discovery issues. Such issues shall be addressed with the court at the conference and shall include but not be limited to (I) implementation of a data preservation plan; (ii) identification of relevant data; (iii) the scope, extent and form of production; (iv) anticipated cost of data recovery and proposed initial allocation of such cost; (v) disclosure of the programs and manner in which the data is maintained; (vi) identification of computer system (s) utilized; (vii) identification of the individual (s) responsible for data preservation; (viii) confidentiality and privilege issues; and (ix) designation of experts.

Dates

Diary the Interim and Compliance Conference/Settlement/Trial Readiness Order Dates as no further notice is given. Conferences are held in the courtroom promptly at 9:30 a.m.

Adjournments of Interim Compliance Conference: Call Carole Slattery, Part Clerk (845) 483-8344 at least 48 hours in advance of conference date (if you still have a problem, call Chambers at (845) 483-8343. If you believe you have a legal reason in the case for not coming to the conference, such as a pretrial matter pending or a dispositive motion is pending, you must still appear for the conference.

Failure to Appear or notify the Court that you cannot appear at the conference may result in an adverse order: dismissal of complaint or judgment against the defendant. A formal motion for relief from your default will then be required.

Note of Issue: Cannot be filed until you have a Compliance Conference. If the case is not settled at that time, the Court will sign a Trial Readiness Order and then you can file the Note of Issue.

The signed Trial Readiness Order must be filed with the Calendar Clerk within twenty (20) days or the case will be marked off the calendar.

Trials

At least five business days prior to jury selection, counsel must submit to the Court any motions in limine, requests to charge and a joint proposed verdict sheet. Counsel must indicate to the Court all requests to charge that are in dispute. Requests to charge shall come from the Pattern Jury Instructions. When counsel requests deviations or additions to the Pattern Charge, the full text of such request must be submitted, with any supporting legal precedent.

If counsel cannot agree on the proposed verdict sheet, each side may submit its own proposed verdict sheet, indicating with a cover letter the disputed issues.

For all bench trials, counsel must submit, within 30 days (or as otherwise set by the Court) a post-trial memorandum, with separate sections for each cause of action. All references to exhibits or testimony must be cited with specificity, and all such documents must be attached. Replies will be due 10 days thereafter, unless the Court otherwise directs.

General

Counsel who appear must be fully familiar with the case and have authority to enter into any agreement, either substantive or procedural, on behalf of their clients. Counsel must be on time for all scheduled appearances and must bring the full file with them each Court appearance.

Interpreters and Special Services: No later than one week prior to the date for any scheduled court appearance, counsel shall advise the Part Clerk if the 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 suffers from any other disability.

Settlements & Discontinuances

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

Communications with the Court:

Telephone calls:

1. Counsel may call the Part Clerk with respect to the scheduling of appearances and with respect to adjournment applications.
2. Counsel may call Chambers and/or the Part Clerk to arrange for a telephone conference with the Court or with the Law Secretary.
3. Counsel may not contact Chambers without all opposing counsel on the phone, except for the purpose of facilitating a conference call.