

**HON. MARGARET GARVEY, J.S.C.**

Rockland County Courthouse  
1 South Main Street  
New City, New York 10956-3512  
Chambers tel.: (845) 483-8334  
Fax: (845) 708-7226

Principal Law Clerk: Siobhan O'Grady (845) 483-8334  
Secretary: Pat Sansone (845) 483-8334  
Part Clerk: Eileen Dillon (845) 483-8335

**I. COMMUNICATIONS WITH THE COURT**

A. Correspondence. Correspondence to the Court shall, without exception, be copied to all adversary counsel(s) and pro se litigants and must reflect the Index Number of the action to which it relates. Correspondence between counsel(s) and/or pro se litigants shall not be copied to the Court unless there is some judicial purpose to be served by transmitting copies to the Court.

B. Telephone Calls. Telephone calls to the Court staff are permitted only in necessary or emergency situations requiring immediate attention that cannot otherwise be attained by correspondence.

C. Faxes. The fax number to Chambers is noted above. Chambers will not accept faxed copies of papers that must otherwise be electronically filed or filed in original form with the Office of the Clerk (such as motions, oppositions to motions, replies, proposed Orders, and documents to be "So Ordered"). Faxes will be accepted of any correspondence intended for the Court so long as copies are simultaneously faxed or delivered to all adversary parties, and so long as the sender transmits the same document(s) intended for the Court via regular mail. Counsel are not permitted, without prior approval, to send facsimile transmissions to Chambers that exceed five (5) pages in length.

D. Ex Parte Communications. Ex parte communications are strictly prohibited except: 1) in the limited permissible context involving the presentation of Orders to Show Cause for signature, or 2) with the consent of all parties during settlement negotiations at the Courthouse, or 3) in the unusual circumstance where oral argument is required by the Court on a motion and a party fails to appear at the scheduled date and time, argument may be heard by the adversary party/parties in attendance in open court. Inappropriate ex parte communications will be returned to the sender, unread.

E. Court Papers. All pleadings, motions, Orders to Show Cause, opposition papers, replies, memoranda of law and other submissions must be signed by counsel to the extent required by Section 130-1.1a of the Rules of the Chief Administrator.

F. E-Filing. All parties should familiarize themselves with the statewide E-Filing Rules (Uniform Rule 202.5-b and 202.5-bb, available at [www.nycourts.gov/efile](http://www.nycourts.gov/efile) and the Rockland County E-Filing protocol. General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us). Specific questions relating to local procedures should be addressed to the Chief Clerk's Office at (845) 638-5393. All actions specified by the Chief Administrator of the Courts, except those specifically excluded pursuant to Uniform Rule 202.5-bb, in Justice Garvey's Part 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. Subpoenas duces tecum and

Subpoenas Ad Testificatum should still be presented to the Court in paper form for signature for upcoming trials.

G. Working Copies. This Court requires working copies on all submissions or electronically filed documents pursuant to Uniform Rule 202.5-b(d)(4) and such working copies shall be sent **directly to Chambers** - not to the Clerk's office. All working copies submitted must include a copy of the NYSCEF Confirmation Notice firmly fastened as the back cover page of the submission and comply with other requirements set forth in the Rockland County Protocol. Working copies without the Confirmation Notice will not be accepted. Working copies are to be delivered directly to Chambers no later than 12:00 p.m. on the first business day following the electronic filing of the document on the NYSCEF site, except in tax certiorari cases\*\*.

\*\*In tax certiorari cases, working copies of any previously filed documents, for instance a Notice of Petition, shall be delivered directly to Chambers at the time of the filing of the RJI. Once the RJI is filed, for all subsequent filings, working copies shall be delivered directly to Chambers no later than 12:00 p.m. on the first business day following the electronic filing of the document on the NYSCEF site.

H. Hard Copy Submissions. The Court 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](http://www.nycourts.gov/efile).

## **II. COURT CONFERENCES**

A. General Rules. All conferences with the Court are conducted in public before Justice Garvey at 9:15 a.m. sharp weekdays in Courtroom # 2 of the Rockland County Courthouse, unless otherwise directed. Matrimonial conferences and detailed settlement discussions of any litigation may be conducted in Chambers when permitted by law and when otherwise appropriate and advisable. Counsel and pro se litigants are expected to appear for all conferences on time. Counsel must be fully familiar with the action(s) on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their clients. Attorney's appearing "of counsel" to an attorney of record, and parties appearing pro se, are held to the same requirements. A failure to comply with this rule may be deemed by the Court as a default and dealt with appropriately. Attorney's are expected to appear with their clients for all conferences in matrimonial actions, unless such appearances are dispensed with by the Court on prior request, noticed to the adversary and any law guardians.

B. Preliminary Conferences. Preliminary Conferences shall be conducted: (1) after a written Request for Judicial Intervention ("RJI") is duly filed with the Office of the Clerk in accordance with Uniform Rule 202.12(a), or (2) after an appropriate notice is filed in medical malpractice actions pursuant to Uniform Rule 202.56, or (3) after an appropriate notice is filed in matrimonial actions pursuant to Uniform Rule 202.16, or (4) upon a specific directive by the Court. Preliminary Conferences will ordinarily result in the issuance by the Court on the same day of a reasonable and complete scheduling Order, which shall address all aspects of anticipated pretrial discovery, and which shall set forth a date on which a Compliance Conference will later be conducted. Discovery may be expedited in third party actions, joint actions and consolidated actions to avoid undue delay in the completion of discovery overall. Preliminary Conferences of matrimonial actions will be conducted in accordance with Uniform Rule 202.16 and DRL Section 236(B)(4), by which the parties are required, inter alia, to submit at the conference copies of counsels' retainer agreements and certified copies of the parties' net worth statements (including copies of their most recent three years of federal and state income tax returns, latest W-2 forms and pay stubs, bank and investment statements and other relevant supporting documentation). Preliminary Conferences of medical, dental, and podiatric

malpractice actions will be conducted in accordance with Uniform Rule 202.56(b). All counsel and pro se litigants are expected to take most seriously the Court's discovery schedule and deadlines, and non-compliance shall only be excused if explained by extenuating circumstances.

C. Compliance Conferences. The purpose of the Compliance Conference is for counsel and pro se litigants to report to the Court that pre-trial discovery has been completed, to enable the Court to direct a date on which a Note of Issue shall be filed and to schedule dates for Mediation, a Pre-trial Conference, and Trial. Parties are not permitted to file a Note of Issue in any action unless permission to do so is granted by the Court at the Compliance Conference. Motions to strike Notes of Issue are discouraged, as matters of outstanding discovery, if any, are expected to be raised, discussed and resolved at the Compliance Conference. The Court reserves the right to set forth at the Compliance Conferences a further discovery schedule if the litigation or the interests of justice so require, though parties are warned that any additional permissible discovery may be subject to an expedited schedule. The Court also reserves the right to impose appropriate sanction against any party or counsel responsible for a non-excusable failure to complete pretrial discovery by the date of the Compliance Conference.

D. Pre-Trial Conference. The Court shall conduct a Pre-trial Conference with all counsel and pro se litigants on a date that shall ordinarily be within thirty (30) days of the trial date. Pre-trial Conference and trial dates that are scheduled during a Compliance Conference should be viewed by the parties and counsel as firm dates. It is expected that counsel attending Pre-trial Conferences shall be fully familiar with the action and be authorized to discuss: (1) all factual and legal issues presented by the litigation, (2) settlement demands or offers, (3) trial procedure and witness scheduling, and (4) that counsel also be authorized to enter into settlements on terms agreeable to the parties and to the Court. The actual parties in any litigation, or in actions involving insurance carriers an authorized claims representative, must be available for the Pre-trial Conference either in person or, if prior permission granted by the Court, by telephone for the purpose of direct contact with the Court in settlement discussions. The Court endeavors to be of assistance to parties in settling litigations prior to trial. In the event a Pre-trial Conference does not result in a settlement of an action, the Court will favorably entertain any later request by the parties, on consent, for the conduct of an additional Pre-trial Conference prior to the date of trial, but shall not allow any such additional conference to delay the trial schedule.

E. Adjournments. As a matter of general practice, adjournments will not be granted for conferences (Preliminary, Compliance, Mediation, Pre-trial) or trials. Applications for adjournments must be made in writing actually received by the Court (by letter or facsimile) at least twenty-four (24) hours in advance of the scheduled conference, and must address: (1) good cause why an adjournment is sought, (2) whether the adverse party (parties) consent or object to the application, and (3) may, at the option of the sender, suggest an approximate time period, or an exact date, for which the adjournment is sought. All such communications must be copied to all counsel and pro se litigants in accordance with Section I of these Part Rules. The Court may, in the exercise of sound discretion, permit or refuse a conference adjournment in any given instance.

F. Non-Appearance at Scheduled Conferences. The failure of any counsel or pro se litigant to appear for Preliminary, Compliance, or Pre-trial Conferences may, with notice, be treated by the Court as a default and shall be dealt with by an Order directing the dismissal of a Complaint or Petition, the striking of any Answer, and the conduct of an inquest, or by other appropriate remedy authorized by Uniform Rule 202.27.

### **III. MOTIONS AND ORDERS TO SHOW CAUSE**

Prior to making any motion (including motions regarding Discovery/Disclosure issues), the

potential movant (or counsel) must notify the Court in writing (two page maximum length), with a copy to all parties, setting forth the relief sought and the basis for that relief. The Court will then schedule either a conference call with counsel, or an in-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 the relief may proceed with the motion.

A. General Rules. The Court will entertain motions on submission, whether brought by Notice of Motion or by Order to Show Cause, for 9:15 a.m. on any Friday the Court is in session. The return date for an Order to Show Cause shall, of course, be determined by the Court at the time papers are submitted for consideration and executed. There shall be no motion calendar called by the Court, and no oral argument heard on any motions unless directed by the Court in a given instance. In the unusual instance when the Court wishes to hear oral argument on a motion, as permitted by Uniform Rule 202.8(d), all counsel and pro se litigants shall be provided with reasonable prior notice of the date and time scheduled for such purpose at which the parties are expected to appear in Court. The failure of a moving party to appear for oral argument at the scheduled date and time may result in the motion being denied and otherwise marked off, while the failure of appearance by an opposing party may result in the motion being argued ex parte and then decided either on the merits or granted on default.

B. Filing of Papers Applicable to All Motions. Except with the express permission of the Court, all motion papers and Orders to Show Cause, including Notices of Motion, proposed Orders, affidavits or affirmations in support, affidavits or affirmations of good faith and memoranda of law, must contain by the telephone and facsimile numbers of counsel and be typewritten, double-spaced, securely bound if submitted in paper form, entirely legible, and all exhibits labeled with exhibit tabs if submitted in paper form. The Court may refuse to accept any such paper which does not conform to the foregoing. Motion papers and all related correspondence must reflect the Index Number assigned to the action. Courtesy copies and/or working copies are neither requested, nor expected. The filing of a motion does not relieve any party from attending any previously scheduled conferences, or court appearances, regardless of the nature of the relief sought in the motion.

C. Electronically Filed Submissions. This Court requires working copies of electronically filed submissions. Counsel must attach each exhibit as a separate exhibit in submissions filed with exhibits. In lieu of exhibit tabs as used in paper submissions, the first page of each separately attached exhibit should be a blank page with the exhibit number or letter in bold letters centered on the page. Counsel should label submissions accurately and clearly in the Electronic Filing system.

D. Supporting Documents. All documents required to decide the application must be included in the moving papers. It is not sufficient that those documents are on file with the County Clerk. Compliance with this rule is particularly important on motions brought pursuant to CPLR § 2221.

E. Motion Adjournments. Upon consent of all counsel and pro se litigants, the Court will typically grant an adjournment of a motion or Order to Show Cause, however, no more than three adjournments of any single motion will be permitted. The party seeking the adjournment must obtain the consent of the adversary parties and notify the Part Clerk of the requested adjournment date at least twenty-four (24) hours before the return date. The Court will then assign a new date for the motion or Order to Show Cause. In assigning an adjourn date, the Court shall give due consideration to any specific date agreed upon by all parties. Motion adjournments should be confirmed to the Court and all adversary parties in writing, in accordance with Section I of these Part Rules. All non-consented requests for adjournments

require Court approval, obtained at least twenty-four (24) hours before the return date. No adjournment request will be entertained by the Court unless the party seeking the adjournment has first attempted to obtain consent from all the other parties in the action. Parties seeking a non-consented to adjournment must provide good cause as to why the adjournment should be granted, in accordance with the communication requirements set forth in Section I of these Part Rules.

F. Reply Papers. Reply Papers shall not set forth new factual claims, legal arguments, expert affidavits, or requests for relief that were not within the scope of the papers that initiated the motion.

G. Sur-Reply Papers. The CPLR does not recognize the existence of Sur-Reply Papers, however denominated, and accordingly, this Court will not consider an post-Reply papers or materials absent a party receiving express permission from the Court in advance. Post-Reply materials received in violation of the rule will be returned, unread, to the Office of the Rockland County Clerk for filing. Opposing counsel who receives a copy of post-Reply materials submitted in violation of this rule should not respond in kind.

H. Summary Judgment Motions. Summary Judgment Motions must be made no later than sixty (60) days from the date of the filing of the Note of Issue.

#### **IV. DECISIONS AND ORDERS**

A. Written Decisions and Orders. In most instances, a Decision and Order will be rendered in written form following the full submission of the motion, or Order to Show Cause. The Decision and Order, with all supporting and opposition papers, will be filed by the Court with the Office of the Rockland County Clerk. A copy of the Decision and Order will be mailed to all counsel and pro se litigants after filing. If counsel has provided a facsimile number with the motion as required by these Part Rules, the Decision and Order will also be faxed to counsel.

B. Oral Decisions and Orders. In certain instances, the Court may render a Decision and issue an Order orally from the Bench. In such instances, a transcript of the Decision and Order, paid for by the parties and provided to the Court, will be executed or "so ordered" by the Court and filed with the Office of the Rockland County Clerk.

#### **V. TRIALS AND HEARINGS**

A. Trial Dates. Trial dates provided by the Court should be deemed firm in every action, and accordingly, it is expected that clients, fact witnesses, physicians, experts and others be timely advised of scheduled dates to avoid last minute claims of unavailability. Counsel is again reminded of the "Sixty Day Rule," pursuant to Uniform Rule 125.1(g) regarding applications for adjournments. If a date for trial of an action or proceeding has been scheduled for two months in advance, counsel previously designated as trial counsel must appear on that date, or if engaged elsewhere or has a scheduling conflict, must produce substitute trial counsel. Videotaped trial testimony can be arranged with the Court at the producing party's expense, to be conducted between the date of the Pre-trial Conference and the date of the trial, to accommodate serious, prejudicial and unavoidable scheduling difficulties that might arise without delaying the scheduled trial itself. In scheduling and conducting trials, the Court shall endeavor to accommodate bona fide special preferences to the extent recognized by CPLR § 3403 and Uniform Rules 202.24 and 202.25.

B. Subpoenas. All counsel are reminded that they may sign trial subpoenas duces tecum and subpoenas ad testificatum as officers of the Court pursuant to CPLR § 2302, except when subpoenas are directed to documents of libraries, hospitals, and municipal corporations and

their departments and bureaus, in which cases they must be "So Ordered" by the Court pursuant to CPLR §§ 2306 and 2307. Subpoenas for documents possessed by libraries, hospitals and municipal corporations may only be "So Ordered" upon motion served upon the intended recipients of the subpoena with at least one (1) day's notice pursuant to CPLR § 2307. "So Ordered" subpoenas must then be served upon intended recipient at least twenty-four (24) hours before the time fixed for the production of the documents, unless such notice is waived by the Court due to emergency circumstances as permitted by CPLR § 2307. Motions for "So Ordered" subpoenas should be delivered to the Part Clerk at the Courthouse in paper form, and will be addressed by the Court promptly when time sensitive. Subpoenas will be "So Ordered" if they appear on their face to relate to evidence that is at least minimally material and relevant to the action, and benefits of the doubt shall ordinarily be resolved in favor of the party seeking the "So Ordered" subpoena. The Court's issuance of "So Ordered" subpoenas should not be viewed by parties as collateral estoppel on the issue of admissibility at trial of the documents to which such subpoenas relate.

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

D. Pre-Trial Requirements.

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

1. Marked pleadings in accordance with CPLR § 4012
2. The joint statement of the relevant facts that are not in dispute
3. Pre-trial memoranda of law as to any known disputed legal issues that must be determined by the Court
4. A list of witnesses for each party
5. A list of all exhibits to be offered by each party
6. Copies of the exhibits intended to be offered by counsel, pre-marked with plaintiff's exhibits numbered sequentially and defendant's exhibits lettered sequentially
7. Requests to Charge - the charge will be drawn from the Pattern Jury Instructions (PJI). A complete list of requested charges is to be submitted. Unless counsel seeks a deviation from the pattern charge, or additions to the pattern charge, only the PJI numbers need to be submitted. Where deviations or additions are requested, the full text of such requests must be submitted in writing and on computer disk in Word Perfect 8.0 format, together with any supporting legal precedent. Additionally, if the PJI calls for incorporation of a statute, counsel must submit the full charge including the text of the statute with proposed or agreed upon edits.
8. Verdict Sheet - counsel shall jointly prepare a verdict sheet. The verdict sheet is to be typed in final form for presentation to the jury. If agreement cannot be reached, then each side shall present a proposed verdict sheet, along with a written explanation as to why agreement on the verdict sheet cannot be reached. If it is feasible, such proposals shall also be submitted on a computer disk in Word Perfect 8.0.
9. In Matrimonial Actions - updated net worth statements, statements of proposed dispositions as required by Uniform Rule 202.16(h) and any forensic reports, appraisals and evaluations.

The Court may in its discretion relieve counsel from all or part of the trial notebook requirements upon a showing that the issues to be tried are sufficiently narrow that the trial notebook is not necessary or that the interest of justice otherwise justify such relief. Such a

request will be entertained only at the Pre-trial Conference. Failure to submit a trial notebook five (5) business days prior to the date of trial may result in the Court, on its own motion, or on motion of opposing counsel, striking the pleadings of the party who failed to submit the trial notebook in accordance with these Part Rules.

Evidentiary Objections. Not later than one (1) business day prior to the scheduled trial date, each counsel shall provide to the other and submit to the Court a statement setting forth any objection to the exhibits identified in the list provided by opposing counsel and the specific basis therefor. Any exhibit as to which no objection is identified shall be admitted into evidence on consent. The failure to submit such a statement of objections on a timely basis may be deemed to be consent to the admission of all of the exhibits included in the trial notebook submitted by the opposing party.

Witnesses. Any witness not identified in the witness list provided to opposing counsel, other than an impeachment or rebuttal witness, shall not be permitted to testify unless an adequate explanation is provided for the failure to identify such witness prior to trial. Parties, fact witnesses and expert witnesses should be advised of the scheduled dates at the time they are set. Absent unanticipated, exigent circumstances, last minute claims of unavailability will not be recognized where trial dates have been previously set. All witnesses should be on one-hour phone call notice so that their waiting time in court is minimized. Professional witnesses, such as doctors, nurses, and social workers, and witnesses who are public employees, such as teachers, counselors and police officers, will be permitted to testify out of order to accommodate their employment schedules. School teachers should be scheduled after 3:00 p.m. so that it is not necessary for the employers to provide substitutes.

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

Settlement. The Court is available for a settlement conference at any time prior to the scheduled trial date. If the matter is not settled prior to the trial date, the trial will commence as scheduled. Settlement negotiations will not be entertained on the scheduled trial date prior to the commencement of the trial. If the matter is settled outside the presence of the Court, counsel shall advise the part clerk immediately so that another matter may be scheduled in its place.

Motions in Limine. Any motions for the Court's consideration in limine must be electronically filed and working copies must be delivered directly to Chambers, as well as served upon adversary counsel(s) not later than seven business days prior to the scheduled date of the trial, except as to issues that cannot be reasonably anticipated prior to trial. Unless otherwise directed by the Court, motions in limine and opposition papers to such motion shall not exceed ten (10) pages in length. If more than one motion in limine is contemplated by a party, each such motion shall be separately bound and is subject to a separate page limit.

Identification of Trial Counsel. Attorneys are reminded that if a trial is to be argued by counsel other than the attorney of record, Uniform Rule 202.31 requires that the trial counsel be identified in writing to the Court and to all parties not later than fifteen (15) days from the date of the Pre-trial Conference, with such writing signed by both the attorney of record and the incoming trial counsel. This rule will be waived by the Court in any instance when the attorney of record is engaged in an unrelated trial and the retention of trial counsel allows the parties to proceed with the trial by Justice Garvey without adjournment.

Pre-Voir Dire Conference. Immediately prior to the commencement of jury selection, the Court shall conduct with all the attorneys and pro se litigants a pre-voir dire conference as required by the Uniform Rule 202.33(b). The purpose of the conference shall be to: set time limits upon jury selection and to determine limits upon peremptory challenges; discuss trial stipulations; argue and/or decide motions in limine; further discuss potential full, or partial, settlements; discuss scheduling; and address other appropriate trial-related issues.

Jury Selection. Juries shall be selected by the parties outside the presence of the Court in accordance with "White Rules," a copy of which comprises Appendix E of the Uniform Rules for the New York Trial Courts. The Court shall impose upon parties in all actions time limits on a Panel-to-Panel basis for the conduct of jury selection, as authorized by Uniform Rule 202.33(d). And such time limits may vary in the exercise of the Court's discretion based upon the nature and complexity of given actions. The Court shall be available to resolve any conflicts that arise between parties during the jury selection process, including but not limited to disputes over challenges for cause as contemplated by CPLR § 4108. Peremptory challenges shall be pooled between multiple plaintiffs on the one hand and between multiple defendants on the other, and generally, each side shall be entitled, per panel, to three (3) peremptory challenges for regular jurors and one (1) peremptory challenges for each alternate juror. However, pursuant to CPLR § 4109, the number of peremptory challenges may be adjusted by the Court in certain actions in the exercise of sound discretion and in the interests of justice.

Bifurcation. The 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. Jury selection, opening statements, and the presentation of evidence shall be governed accordingly. Trials on damages will commence immediately upon completions of the trials on liability.

Non-jury Trials - Transcripts and Post-Trial Briefs. Unless the Court directs otherwise, the parties will obtain and provide to the Court, on or before the date set by the Court at the conclusion of the trial, a copy of the trial transcript and each party will submit a post-trial brief with respect to the issues raised at the trial, setting forth specific references to the relevant portions of the transcript and the documents in evidence and citing the applicable law. Along with the submission of the post-trial briefs, counsel will also present the Court with a computer disk, in Word Perfect 8.0 format, containing a proposed findings of fact and a proposed disposition.

## **VI. SETTLED AND DISCONTINUED CASES**

Counsel shall immediately notify the Court of a case disposition. Following the initial notification, counsel shall submit a copy of the stipulation of discontinuance to chambers so that the matter may be marked off the calendar.