



James W. McCarthy
Supreme Court Justice

SUPREME COURT CHAMBERS
Oswego, New York

Oswego County Courthouse
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Andrew T. Wolfe
Principal Law Clerk

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Secretary to Justice

Please be advised, failure to timely provide any or all documents as listed on page 4 of this Contested Matrimonial Preliminary Conference Order to Appear and to File Papers may result in the court holding a sanctions hearing on the return date for non-compliance.

Via Facsimile
Plaintiff Attorney

Defendant Attorney

Re: *Case Name*
RJI No.

**CONTESTED MATRIMONIAL
PRELIMINARY CONFERENCE
ORDER TO APPEAR AND TO FILE PAPERS**

Please be advised pursuant to 22 NYCRR 202.16(1), the Court hereby **ORDERS** a preliminary conference in this contested matrimonial to be heard on _____, at 9:00 a.m. at the Courthouse, 25 East Oneida Street, Oswego, New York. **All parties must be present in Court at this time.**

22 NYCRR 202.16(c)(1) requires each attorney to file a copy of his/her retainer agreement with the Court only accompanying the statement of net worth.

APPLICATION FOR ATTORNEYS FEES

In the event counsel for a party is making, or will be making, an application for counsel fees at any stage of the action to be paid by the opposing party, counsel seeking the attorneys fees must provide a copy of his/her retainer agreement to opposing counsel. Failure to comply with this transmittal of retainer agreement to opposing counsel will result in denial of the application for counsel fees (22 NYCRR 202.16(c)(1) and (K)(2), 22 NYCRR 1400.3). Counsel applying for attorneys fees must also comply with 22 NYCRR 202.16 (K)(3).

NOTE: ANY PAPERS SUBMITTED BY A PARTY (INCLUDING NET WORTH STATEMENTS) WHICH CONTAIN STATEMENTS OR ALLEGATIONS OF FACT, MUST BE CERTIFIED BY COUNSEL THAT COUNSEL HAS NO KNOWLEDGE THAT THE SUBSTANCE OF THE FACTUAL SUBMISSIONS ARE FALSE (22 NYCRR 202.16(e)).

At this conference, the Court will establish a timetable for completion of discovery proceedings, will direct the parties thereafter to stipulate to all resolved issues and to all issues with respect to fault, custody and finance that remain unresolved (22 NYCRR 202.16(f)(3)) and will also set a trial date within six (6) months from the conference date.

Other matters, including applications for *pendente lite* relief, requests for temporary maintenance and child support and interim counsel fees, if not previously determined by the Court on motion, will be considered at this time. **Any application for *pendente lite* relief and interim counsel fees must be submitted to the Court and opposing counsel no later than ten (10) days prior to the date of this conference.**

Please note that pursuant to §202.16(g)(2), each expert witness whom a party expects to call at the trial shall file with the Court a written report, which shall be exchanged and filed with the Court no later than sixty (60) days before the date set for trial, and reply reports, if any, shall be exchanged and filed no later than thirty (30) days before such date. Failure to file with the Court a report in conformance with these requirements may, in the Court's discretion, preclude the use of the experts. Except for good cause shown, the reports exchanged between the parties shall be the only reports admissible at trial.

IN ADDITION, PLEASE BE ADVISED THIS COURT WILL ADHERE TO §202.16(h), A STATEMENT OF PROPOSED DISPOSITION SHALL BE FILED (RECEIVED) BY THE COURT AND OPPOSING COUNSEL NO LATER THAN 10 DAYS PRIOR TO THE TRIAL DATE TO BE SET BY THE COURT.

Please note that failure to appear may be treated as a default under 22 NYCRR 202.27, and may result in a directed judgment or dismissal of claims.

***NOTE WELL:**

- 1) **In the event the net worth statement is not filed with/received by the court at least five (5) business days prior to the preliminary conference, the court may hold a sanctions hearing on the preliminary conference date pursuant to 22NYCRR §130-1.1(d), and may impose sanctions upon the party having not filed the net worth statement with the court. The court may also treat any filing of the net worth statement with the court less than five (5) business days prior to the preliminary conference as a nullity solely in regard to any requested relief by the other party at the preliminary conference.**
- 2) **All preliminary conferences will be conducted on the record with the parties present.**
- 3) **Do not send (except for correspondence or documentation the court has directed to be provided to it) the court copies of correspondence between the attorneys. If you want the court to take affirmative action, pay the appropriate fee to the County Clerk and file and serve a timely motion or Order to Show Cause. The court will not take affirmative action at any**

subsequent requested conferences unless by stipulation of the parties or by a notice of motion or Order to Show Cause properly made.

- 4) It has been, and continues to be, the policy of this Chambers that any and all documentation submitted for the Judge's signature be accompanied by a self addressed postage paid envelope with sufficient postage for the return of those papers. Therefore, any documentation submitted for a signature that does not include a self addressed postage paid envelope, or does not include an envelope with sufficient postage, will not be returned. Chambers will not call to request a postage paid envelope and/or an envelope with sufficient postage.

SO ORDERED:

HON. JAMES W. McCARTHY
Supreme Court Justice

Dated:
at Oswego, New York

JWM/knc
encl.

Revised September 7, 2012

Notice to Litigants - DRL §177
Notice to Parties to Divorce Actions

All parties to divorce actions are hereby given notice, pursuant to Domestic Relations Law §177 [DRL §177], that once a judgment of divorce is entered, a person may, or may not, be eligible to be covered under his or her spouse's health insurance plan, depending upon the terms of the plan.

Pursuant to DRL §177, the parties may be granted a 30 day continuance to afford the parties an opportunity to procure their own health insurance coverage. If you desire such a continuance, you should request a continuance pursuant to DRL §177.

If the parties to a divorce action enter into a Stipulation of Settlement, the accompanying Addendum to Stipulation of Settlement should be attached to the stipulation, or the signed and dated statements required by DRL §177 should be included in the body of the stipulation.

22 NYCRR 202.16(f)(1) requires that the following papers be exchanged between the parties and filed with the Court no later than 5 business days prior to the preliminary conference:

- a) Statements of Net Worth;
- b) all filed state and federal income tax returns for the previous three (3) years, including both personal returns and returns filed on behalf of any partnership or closely held corporation of which the party is a partner or shareholder;
- c) all W-2 wage and tax statements, 1099 forms, and K-1 forms for any year in the past three (3) years; and
- d) copies of the last five pay stubs immediately preceding the court appearance.

22 NYCRR 202.16(c)(1) requires each attorney to file a copy of his/her retainer agreement with the Court only accompanying the statement of net worth.

Please be advised, the court
ORDERS
receipt of the above documents
within the time frame indicated.