

## INDIVIDUAL PART RULES

### HON. VICTOR G. GROSSMAN

Supreme Court of the State of New York

Putnam County Courthouse

20 County Center, 2<sup>nd</sup> Floor

Carmel, New York 10512

Chambers Tel. (845) 208-7890

Fax (845) 431-1933

Commencing January, 2014, matters before the Honorable Victor G. Grossman of the Supreme Court, Putnam County, shall be conducted pursuant to the following information, practices, rules and procedures:

#### STAFF

Lisa M. Wolland, Principal Law Clerk

(845) 208-7835

Rose Stern, Secretary

(845) 208-7834

Karen O'Connor, Chief Clerk

Lisa D'Angelo, Deputy Chief Clerk

(845) 208-7854

Debra McClay, Part Clerk

(845) 208-7852

#### I. COMMUNICATIONS WITH THE COURT

A. *Correspondence.* Correspondence to the Court shall, without exception, be copied to all adversary Counsel and pro se litigants. Correspondence between Counsel and/or pro se litigants shall not be copied to the Court unless there is some specific judicial purpose to be served by transmitting copies to the Court. Faxes and letters addressing substantive non-procedural matters, such as adjournments, will not be considered by the Court absent prior approval. In the absence of prior approval, any application shall be treated as having been denied without further action by the Court.

B. *Telephone Calls.* Telephone calls to the Court staff are permitted only in urgent situations requiring immediate attention that cannot be attained by correspondence. (See Section II.E. on Adjournments)

C. The Court does **NOT** permit litigation by way of letter correspondence/letter

application to the Court or by way of being copied with letter correspondence by and between counsel. Any such submission should be considered by counsel as having been denied without further action or consideration of the Court.

## II. COURT CONFERENCES

A. *General Rules.* All conferences with the Court are conducted promptly at 9:30 a.m. weekdays, in the Putnam County Courthouse, unless otherwise directed. Counsel, including per diem covering Counsel, and pro se litigants, must appear on time, be fully familiar with the action(s) on which they appear, and have authority to enter into any agreement on behalf of their client. In matrimonial actions, attorneys are to appear with their clients for all conferences, unless such appearances are dispensed with by the Court on prior written request, on notice to the adversary and, if applicable, the children's attorney(s).

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 in matrimonial actions will be conducted in accordance with Uniform Rule 202.16 and DRL Section 236(B)(4). Preliminary Conferences in medical, dental and podiatric malpractice actions will be conducted in accordance with Uniform Rule 202.56(b). All Counsel and pro se litigants must comply with the Court's discovery schedule and deadlines, and non-compliance shall be excused only 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, so the Court can direct a date on which a Note of Issue shall be filed, and can schedule Pre-Trial Conference and trial dates. Settlement discussions may also take place. Parties are not permitted to file a Note of Issue in any action unless permission to do so is granted by the Court. Not later than twenty (20) days after the filing of a Note of Issue, the parties must enter into a Stipulation setting forth agreed upon matters of fact, and the admissibility of documents where the accuracy and reliability of these documents are not in dispute, such as bank statements, closing statements, credit card statements, tax returns, benefit plans and real estate documents. Each party reserves all rights to raise issues and arguments, notwithstanding the admissibility of the document(s). The failure of the parties to stipulate undisputed matters of fact or the admissibility of documents, thereby generating unnecessary trial time, shall be a factor in evaluating requests for the granting, or denying, of counsel fees, if otherwise authorized.

D. *Pre-Trial Conferences.* The Court shall conduct a Pre-Trial Conference with all Counsel and pro se litigants on a date that ordinarily shall be within thirty (30) days prior to the trial. Counsel attending Pre-Trial Conferences must be fully familiar with the action and

authorized to discuss: (1) all factual and legal issues presented by the litigation; (2) settlement demands or offers; and (3) trial procedure and witness scheduling. In addition, Counsel must be authorized to enter into settlements on terms agreeable to the parties and to the Court.

E. *Adjournments*. **NO TELEPHONE REQUESTS WILL BE CONSIDERED. THE PREFERRED METHOD OF REQUESTING AN ADJOURNMENT IS VIA E-MAIL TO THE PART CLERK, DEBRA McCLAY AT [dameclay@nycourts.gov](mailto:dameclay@nycourts.gov). IF E-MAIL IS UNAVAILABLE, REQUESTS MUST BE FAXED TO (845) 431-1933.** Applications for adjournments must be made in **writing** and *actually received* by the Court at least twenty-four (24) hours in advance of the scheduled conference, and must be copied to all Counsel and pro se litigants. This written application must address: (1) good cause why an adjournment is sought; (2) whether the adversary party(ies) consent or object to the application; and (3) at the option of the sender, an approximate suggested time period, or an exact date, for which the adjournment is sought. The Court will then notify the applying party or counsel whether the request has been granted or denied. That party shall then notify in writing all adversary parties, with a copy to the Court, of the adjournment date and time, if granted.

F. *Foreclosure Settlement Conferences (FSP-P)*: Please refer to Part Rules Under the FSP-P on the County of Putnam webpage.  
<http://www.nycourts.gov/courts/9jd/Putnam/foreclosure-partrules.pdf>

### III. MOTIONS AND ORDERS TO SHOW CAUSE

A. *General Rules*. Prior to making any motion, the movant should write the Court, with a copy to all parties, specifying the relief sought and the basis for that relief. The Court will then schedule either a conference or a conference call with Counsel. This procedure does not preclude the moving party from making a motion, but rather, provides the Court with an opportunity to resolve the dispute without the need for a formal written application. Failing resolution of the issue in this matter, the party seeking the relief may proceed with a motion. The Court will entertain motions on submission, whether brought by Notice of Motion or by Order to Show Cause, at 9:30 a.m. on any Friday the Court is in session, unless otherwise directed by the Court. The return date for an Order To Show Cause shall be determined by the Court at the time papers are submitted for consideration and executed. There shall be no oral argument heard on any motions of Orders to Show Cause unless directed by the Court. In the event 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 their appearance in Court for such argument.

B. *Filing of Papers Applicable To All Motions*. Except with the express permission of the Court, all motion papers and Orders to Show Cause, must be typewritten, double-spaced, securely bound, legible, with all exhibits labeled with tab markings. Deposition

transcripts included as exhibits must be full pages only. The Court may refuse to accept any paper which does not conform to the foregoing. **Courtesy copies** are **not** to be submitted. Sur-Replies are not permitted without permission of the Court, and such permission, if given, is limited to addressing new matters only contained in Reply Papers, or recent caselaw developments. Sur-Replies shall not be used to repeat arguments. All motions and Orders to Show Cause must be filed with the Office of the County Clerk with the appropriate filing fee. All motions will be limited to twenty (20) pages, unless prior Court approval is given. All motions will be returnable on Fridays at 9:30 a.m., except by Order of the Court.

C. *Motion Adjournments.* Upon consent of all Counsel and pro se litigants, the Court typically will 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 adversary parties and notify the Part Clerk of the requested adjourned date at least twenty-four (24) hours before the return date. If the adversary's consent is not obtained, the procedure for seeking adjournment of a Court Conference outlined in Section II.E above shall be followed. Motion adjournments shall be confirmed in writing to the Court and all adversary parties.

D. *Discovery-Related Motions.* Counsel must consult with one another in a good faith effort to resolve all disclosure disputes. (See Uniform Rule 202.7). If Counsel are unable to resolve a disclosure dispute in this manner, the procedures set forth above regarding motion practice must be followed before a motion may be filed. The Court will not conference disclosure disputes.

E. *Summary Judgment Motions.* All Summary Judgment Motions must be made within sixty (60) days of filing the Note of Issue.

F. *Applications for Temporary Injunctive Relief or Stays:* Counsel and pro se litigants shall follow the directives of Uniform Rule 202.7(f) with respect to such application. The failure to supply the requisite affirmation will result in the request for injunctive relief or stay being stricken from the application, or the rejection of the papers.

\*\*\*\*\***IMPORTANT**\*\*\*\*\*

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

A. The parties are responsible for obtaining copies of all written Decisions, Judgments, Orders, So-Ordered Stipulations or other documents submitted for the Court's signature. Courtesy copies will be furnished only when Chambers is provided with a stamped, self-addressed envelope.

Parties who do NOT furnish stamped, self-addressed envelopes will, nevertheless, be

bound by all dates, obligations and appearances directed in Orders, Motions and Decisions.

B. All proposed Orders of Reference submitted must contain the three paragraphs before the signature line, as follows:

ORDERED that the Referee is entitled to a fee of \$250.00 for the Report and \$500.00 upon the sale, \$250.00 for any sale canceled on less than 24 hours' notice to the Referee, and \$250.00 for any third party closing; and it is further

ORDERED that the Plaintiff shall make application for Judgment of Foreclosure and Sale within six (6) months of the date of entry of this Order of Reference, unless extension is granted by the Court for good cause shown; and it is further

ORDERED that the Referee shall complete and file in the Office of the Putnam County Clerk, and submit a copy to the Chambers of the undersigned, a "FORECLOSURE ACTION SURPLUS MONIES FORM," within thirty (30) days of the date of the sale.

A fillable Foreclosure Action Surplus Monies Form (FASMF) is available online at [www.nycourts.gov](http://www.nycourts.gov) under the link for "Courts," and then "Forms," and then "Statewide Forms (Other)."

In matters where an Order of Reference has already been granted, the foregoing directive regarding submission of a surplus money form shall be included in the Judgment of Foreclosure.

C. All proposed Judgments and Foreclosure Sales must contain the following language:

**ORDERED**, that the appointed Referee shall file the completed, signed Foreclosure Action Surplus Monies Form in accordance with the Court's procedures (<http://www.nycourts.gov/courts/7jd/>).

To ensure that the Foreclosure Action Surplus Monies form was timely filed and any surplus fund appropriately deposited, a conference will be scheduled if the form has been timely filed with the Court and the Office of the County Clerk.

If the FASMF and proof of deposit, if any, are not timely filed, the case shall be "calendared" no later than six (6) months after the Judgement of Foreclosure has been signed, before the Judge who appointed the Referee (or before a Court Attorney-Referee, or a JHO) for whatever action he or she deems appropriate. This is to determine whether the sale as ordered has occurred, the outcome, and to determine if surplus monies, if any, have been properly deposited. If the Referee provides the FASMF and proof of deposit, if any, prior to the scheduled date, no further action by the Referee will be necessary.

## V. TRIALS AND HEARINGS

A. Prior to commencement of a trial, Counsel shall provide the Court with the following, as relevant:

- 1) marked pleadings in accordance with CPLR Rule 4012;
- 2) pre-trial memoranda of law related to any known disputed legal issues that must be determined by the Court;
- 3) a list of witnesses for each party;
- 4) 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 seek 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, together with any supporting legal precedents.
- 5) verdict sheet. Counsel will jointly prepare a verdict sheet. The verdict sheet is to be typed and in final form for presentation to the jury. If agreement cannot be reached, then each side may present a proposed verdict sheet. If feasible, such proposals should be submitted on a computer disc in the format convertible to Word Perfect 8.0.
- 6) in matrimonial actions, updated net worth statements (with the latest available supporting documents such as income tax returns, W-2's, brokerage statements, retirement plan statements), statements of proposed disposition as required by uniform Rule 202.16(h), and any forensic reports, appraisals and evaluations.

B. *Motion in Limine*. Any motions for the Courts's consideration *in limine* must be filed with the County Clerk and served upon adversary Counsel no later than seven (7) days prior to the scheduled date of the trial, except as to issues that could not have been reasonably anticipated within that time frame.

## VI. SETTLED AND DISCONTINUED CASES

Counsel shall immediately notify the Court of a case disposition. Following the initial notification, Counsel shall file the original with the County Clerk and provide a copy of the Stipulation of Discontinuance to Chambers so that the matter may be marked off the calendar.