

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU -PART 47**

**INTEGRATED DOMESTIC VIOLENCE COURT  
DOMESTIC VIOLENCE COURT**

**COMBINED PART RULES & PROCEDURES**

Acting Supreme Court Justice: **HON. HELENE F. GUGERTY**

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The Integrated Domestic Violence Court (I.D.V.) of the Supreme Court of the State of New York has been created to hear and determine cases in which Criminal Court charges of domestic violence among family members are pending and there is simultaneously pending a civil case(s) in the Supreme and/or Family Court involving the same persons (22 NYCRR 141 .1 et seq.). One of the reasons for the creation of I.D.V. is to increase the efficiency by which the system of justice addresses such cases involving common threads of alleged domestic conflict. Hence, it is the goal of I.D.V. to adjudicate cases as quickly and efficiently as possible. The respective cases shall be scheduled to enable Counsel and the parties in the separate cases to appear on the same day, date, and time, in I.D.V.

Each case brought into I.D.V. fully retains its separate jurai identity. Cases transferred to I.D.V. from Criminal Court and Family Court receive new docket numbers specifically created for I.D.V. which replace the former Criminal Court and Family Court docket numbers. Cases transferred from the Matrimonial part of the Supreme Court retain their original docket numbers.

The following rules and procedures apply to I.D.V. cases, and Domestic Violence cases:

## I. COURT APPEARANCES

Calendar Call for all cases will commence at 9:30 a.m. Attorneys, Litigants, and Law Guardians for all matters must be present in the Courtroom at 9:30 a.m. on each and every Court date, unless otherwise directed by the Court (including Preliminary, Compliance and Pre-trial conferences). Late appearances will not be permitted without good cause.

Attorneys must sign their cases in with the Courtroom Clerk prior to Calendar Call.

Criminal cases may be conferenced with the Assistant District Attorney in the Courtroom between 9:15 a.m. and 9:30 a.m. Conferences with the Court will be conducted at the Bench during Calendar Call.

Attorneys should discuss the respective cases with their adversaries and clients prior to the Court date in an effort to reach an amicable resolution. Attorneys appearing on each Court date must be fully familiar with all of the outstanding issues regarding the case.

*Criminal Cases:* On the initial Court date, a Bench conference will be conducted to determine whether the case can be disposed of with a plea. If the case cannot be disposed of, Voluntary Discovery will be ordered or a motion schedule will be established, and the case will proceed to Hearings and Trial.

*Family Court Cases:* On the initial Court date, a Bench conference will be conducted to determine whether the case can be resolved. If the case cannot be resolved, the case will be scheduled for a Trial on any pending Family Offense Petitions first, followed by a Trial on any pending Custody/Nisitation Petitions.

*Matrimonial Cases:* On the initial Court date, a Bench conference will be conducted to determine whether the case can be resolved. If the case cannot be resolved, the status of any outstanding discovery will be discussed and an updated I.D.V. Discovery Order will be issued. The case will next be scheduled for a Compliance conference and then Trial. A pre-trial conference will be conducted on the date of Trial.

Final Calendar Call will be at 1 1:00 a.m. Litigants not appearing by Final Calendar Call will receive a Default ruling on their case. Issued Bench Warrants on Criminal and Family Court cases will not be recalled.

## II. ADJOURNMENTS

### A. Court Dates:

1. No adjournments of Court dates will be accepted or effective without the prior approval of the Court. Since each matter involves a multiplicity of cases, parties, and Attorneys, no adjournment or modification of a Court date will be granted unless based on unforeseeable or extraordinary circumstances.

2. A request for an adjournment of a Court date shall be made by an Attorney conference call to Chambers no later than 3:00 p.m. on the business day immediately proceeding the scheduled Court date.

3. All Attorneys, Litigants and Law Guardians must be advised of and consent to proposed adjournment requests and agree upon proposed adjournment dates.

4. Upon approval by the Court of an adjournment request, the requesting Attorney must immediately forward a confirmation letter to the Court (via fax and first class mail), and notify all Attorneys and the Law Guardian, by phone call and letter (via fax and first class mail), that the Court has adjourned the Court date on consent of all of the parties. Each Attorney is responsible for notifying his/her respective client.

5. Upon denial of an adjournment request by the Court, all Attorneys, Litigants and the Law Guardian must appear in Court on the scheduled Court date.

6. Unless an adjournment request is specifically granted by the Court prior to the Court date, all parties must appear in Court on the scheduled Court date.

7. In addition to the above procedure, adjournment requests based on the unanticipated engagement of Counsel on another hearing or trial must also be accompanied by an Affirmation of Engagement in conformity with 22 NYCRR § 125, and specifying the Court the Attorney is engaged in, the name of the Judge, the name of the case, the type of case, whether the engagement is on a Hearing or Trial, and the expected duration of the engagement. The Affirmation must be forwarded to Chambers no later than 3:00 p.m. on the business day immediately proceeding the scheduled Court date (via fax and first class mail). Attorneys are directed not to send their clients to Court with an Affirmation of Engagement without previously notifying Chambers of the engagement. Phone call notification to Chambers on the morning of the scheduled Court date is unacceptable.

8. Adjournment requests which are left on the chamber's voicemail shall be disregarded.

B. Motions:

Applications to adjourn motion dates will follow the same procedure as adjournment requests for Court dates as indicated above.

C. Hearings and Trials:

Attorneys must be ready to proceed with scheduled Hearings and Trials. Hearings and Trials will continue day to day until completed. There will be no adjournments of Hearings or Trials without exceptional circumstances. Applications to adjourn Hearings and Trials will follow the same procedure as adjournment requests for Court dates, as indicated above.

D. Matrimonial Cases:

1. Adjournments of Preliminary and Compliance conferences will not be granted absent good cause. Counsel are directed to review the provisions of 22 NYCRR § 202.16 (f) concerning conferences.

2. Discovery deadlines, Certification deadlines and Note of Issue deadlines, will be strictly enforced. Deadlines will not be extended absent prior approval by the court.

### **III. MOTIONS**

A. Pre-Motion Conferences:

1. Prior to making or filing any motions, including non-emergency Order to Show Cause applications, Counsel for the moving party must arrange for a conference call to be held with his/her adversary and the Court to discuss the issues involved and the possible resolution thereof. The Law Guardian shall also be notified and included in such conference calls. Counsel fully familiar with the matter and with authority to bind their client must be available to participate in the conference.

2. If the issue can be resolved during the conference call, an Order consistent with such resolution will be issued. If the issue cannot be resolved during the conference call, the Court will set a motion schedule for the motion.

3. There will be no oral arguments on motions or Order to Show Cause applications unless specifically indicated by the Court.

B. Submission of Motions:

1. Appearances of all Attorneys, Litigants, and Law Guardians are not required on submission dates, unless otherwise indicated by the Court.

2. Motions are to be served and filed in conformity with C.P.L.R. 2214. In addition, the various branches of the motion, as delineated in the Notice of Motion or Order to Show Cause, are to be preceded by a number or letter which corresponds to a number or letter in the supporting affirmations and affidavits containing the numbered paragraphs dealing with the particular relief sought. All exhibits must be clearly tabbed.

3. No sur-reply affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.

4. Attorneys are directed to provide the Court with self-addressed, stamped envelopes with the submitted papers in order to facilitate delivery of the Court's decision. The Court will not separately mail or fax copies if its decision.

5. All papers must be properly bound.

6. Motions not consistent with these rules will be rejected and returned to Counsel.

C. Matrimonial Actions-Application for a Stay or Temporary Restraining Order (TRO):

1. At any conference of the matter, if an Order to Show Cause seeking any injunctive relief, including a stay or TRO, is submitted or pending, Counsel shall advise the Court of the pendency of such application, the return date of such Order to Show Cause, the relief sought and whether an immediate hearing is sought.

2. Requests to continue or vacate a stay or TRO beyond the return date of the motion shall be made on the call of the calendar. Failure to apply for such extension shall

result in the automatic *vacatur* of the stay or TRO, unless the Order to Show Cause provides otherwise.

D. Interim Partial or Full Settlement:

If all or part of a submitted motion is settled, a written Stipulation signed by all of the Attorneys and parties, together with a proposed Order with Notice of Settlement (on at least ten [10] days notice), or a signed Waiver of Settlement, shall

be submitted with a copy to be conformed along with a self-addressed, stamped envelope. In addition, the forgoing shall be accompanied by a letter setting forth the date the motion was submitted, what aspects of the motion have been settled and what issues, if any, remain to be decided. If the motion is resolved, in whole or part, on the record, Counsel shall submit a proposed Order regarding same together with a copy of the minutes of the proceeding. Alternatively, the parties may submit a written Stipulation signed by all of the Attorneys and parties, and same shall be "So Ordered."

#### **IV. COMMUNICATION WITH CHAMBERS**

In all communications with Chambers by letter, the title of the action, the docket number, the next Court date the matter is on, and full names and addresses of the Attorneys, Litigants, and Law Guardian shall be set forth, with copies simultaneously delivered to all Counsel. Ex parte communications with Chambers, whether by telephone, fax or otherwise, are improper and will be disregarded.

Copies of correspondence between Counsel shall not be sent to the Court. Such copies if received by the Court shall be discarded and not placed in the Court's file.

The Court will not accept fax communications or submissions without prior permission.

#### **V. APPLICATIONS FOR SANCTIONS**

The Court will not consider a "Sanctions Application" unless the moving party first seeks withdrawal or discontinuation of the offending act or action, or demands required or necessary action which is refused. Proof of such request must be made a part of the sanctions application.

#### **VI. MISCELLANEOUS**

Attorneys who have appeared in matters before the Court are required to make all appearances until either the conclusion of the case or they are relieved by the Court. A discharge of an attorney by his/her client will not relieve the attorney from appearing in Court unless the attorney is formally relieved by the Court.

If an I.D.V. matter is settled out of Court, a written Stipulation of Settlement and Discontinuance signed by all of the Attorneys and parties, shall be submitted to the Court no later than 3:00 p.m. on the business day immediately proceeding the scheduled Court date. Counsel must contact the Court to determine if any appearances will still be required.

Counsel and the Law Guardian are reminded that the Law Guardian acts in the role of Counsel for the child(ren). As such, the Law Guardian is bound by the same ethical and procedural rules as Counsel for the parties. Ex parte communications between the Law Guardian and the Court will not be permitted.