

HONORABLE JAMES D. PAGONES

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Part Rules

(amended 01/25/16 and effective immediately. These Rules are subject to change.)

Eric S. Conroy, Esq., Principal Court Attorney
Nancy S. Tang, Secretary
Lori Conners, Senior Court Clerk

CERTIFICATION OF PAPERS:

Every pleading, written motion and other paper served or filed in an action must be signed by an attorney pursuant to §130-1.1a of the Rules of the Chief Administrator of the Courts.

APPEARANCES:

(a) Within ten (10) days of written notification of this Part's assignment to a case, or written notification of a Preliminary Conference, whichever shall first occur, each attorney shall file a record of appearance with chambers. The record of appearance shall include the attorney's name, firm affiliation, mailing address, telephone and facsimile number as well as the party represented. The record of appearance shall also contain a written acknowledgment that counsel is familiar with these Part Rules. Counsel and/or self-represented parties are required to keep the Court informed of their current address, telephone number and, if available, facsimile number at all times.

(b) Pursuant to §130-2.1 of the Rules of the Chief Administrator of the Courts, the Court may impose financial sanctions and award costs and reasonable attorney's fees against any attorney who, without good cause, fails to appear at a time and place scheduled for an appearance in any action or proceeding.

(c) Pursuant to §202.27 of the Uniform Civil Rules for the Supreme Court, upon the default of any party in appearing at a scheduled call of a calendar or at any conference, the Court may grant judgment by default against the non-appearing party.

(d) At all scheduled appearances and conferences before the Court, only an attorney thoroughly familiar with the action and authorized to act on behalf of a party shall appear.

PRELIMINARY CONFERENCES:

A party may request a preliminary conference any time after issue has been joined. In any event, the Court will schedule a preliminary conference within forty-five (45) days after an RJI has been filed on a matter. A form stipulation and order shall be provided to the parties which shall establish a timetable for discovery within parameters set forth by the Court after determination as to whether a matter should be designated a "standard" or a "complex" case. If all parties sign the stipulation and return it to chambers prior to the scheduled conference, the stipulation shall be "so ordered" by the Court and, unless the Court orders otherwise, appearances will not be required at the preliminary conference.

Once the stipulation has been "so ordered", no modifications are permitted except by written order of the Court.

MATRIMONIAL ACTIONS:

(a) No later than ten (10) days prior to a preliminary conference in any matrimonial action, each party shall file and serve copies of the following documents:

1. retainer agreement
2. net worth statement
3. most recent paystub, income tax return and W-2

(b) Parties must be present at the preliminary conference.

(c) All pendente lite applications must be in writing and any application regarding child support must be accompanied by a completed Child Support Worksheet.

COMPLIANCE CONFERENCE:

The preliminary conference order shall provide a date and time for the parties to appear at a compliance conference.

(a) At the compliance conference, the Court will ensure that discovery is proceeding as scheduled.

(b) Unless a note of issue has been earlier filed, the Court shall direct a date as the deadline for filing a note of issue and certificate of readiness.

PRETRIAL CONFERENCE:

Within 45 days of the filing of a note of issue, the Court shall schedule a Pretrial Conference.

(a) The plaintiff shall file, no later than five (5) days prior to the Pretrial Conference a copy of each of the following:

1. marked pleadings
2. verified bill of particulars

3. any medical reports and records
- (b) At the pretrial conference, the Court shall establish a deadline for the exchange of expert witness information pursuant to CPLR §3101(d)(1) which shall, in no event, be later than ninety (90) days before trial for the party bearing the burden of proof on that issue. The opposing party must serve its disclosure within forty-five (45) days of trial.
- (c) The Court will explore limitation of issues for trial, including referring certain issues to a referee if appropriate.
- (d) The Court will schedule a date certain for trial of all outstanding issues.
- (e) Counsel should be prepared to discuss settlement and should have full authority from their respective clients.

TRIALS:

- (a) Once scheduled, a trial shall not be adjourned for any reason other than the actual engagement of counsel as provided for in §125.1 of the Rules of the Chief Administrator of the Courts. Any application for an adjournment must be made in writing and must be supported by an affirmation of counsel establishing the requisite grounds set forth in 22 NYCRR §125.1.
- (b) Matrimonial Actions Only:
 1. Expert Witnesses: At least ninety (90) days prior to the trial date set forth below, each party shall serve and file with the court a written report of each expert witness whom the party expects to call at trial and, at least sixty (60) days prior to the trial date set forth below, each party shall serve and file with the court any reply report. If a party intends that a written report shall substitute at trial for direct testimony, that party shall so advise the other party and the court at least ten (10) days prior to trial.
 2. Witnesses (Other Than Expert): At least ten (10) days prior to trial, each side shall submit to the court and the other side a list of all other witnesses (except impeachment or rebuttal witnesses) whom that side intends to call at trial, specifying, where applicable, those whose depositions will be used.
 3. Statement of Proposed Disposition: At least ten (10) days prior to trial, each side shall submit to the court and the other side a statement of proposed disposition. 22 NYCRR §202.16(h).
 4. Exhibits: The parties shall consult and work out a stipulation governing the authenticity and admissibility of all trial exhibits concerning which the parties can agree, which exhibits shall be premarked before the case is called for trial. Ten (10) days prior to trial, the parties shall submit to the Part a list or lists of: (i) all exhibits stipulated to be admissible, (ii) plaintiff's proposed additional exhibits, and (iii) defendant's proposed additional exhibits.
- (c) All Other Supreme Court Actions:

No later than 72 hours prior to the time scheduled for the trial to commence (in cases of *non-jury* trials, 72 hours before first day of trial; in cases of *jury* trials, 72 hours before first day of jury selection), counsel shall:

 1. pre-mark all exhibits and shall submit an exhibit list on a form to be provided by the Court.
 2. file a brief concerning any unusual issue(s) counsel believes may arise at trial
 3. submit a list of probable trial witnesses.
- (d) Counsel shall submit with the exhibit list a verdict sheet jointly prepared by counsel. If agreement cannot be reached, then each side shall submit a proposed verdict sheet.
- (e) Counsel shall submit all requests to charge by referencing the appropriate Pattern Jury Instructions (PJI) number.
- (f) Jury selection. Attorneys shall employ "White's Method" of selecting the jury panel. In each round, questioning shall be conducted first by plaintiff's counsel.
- (g) Summary Jury Trials - This Part has adopted specific rules governing summary jury trials. Upon agreement of the parties and approval by the Court, the rules and required forms will be provided by chambers.

MOTIONS:

- (a) Motions are returnable on any day of the week.
- (b) Original motion papers should be submitted directly to chambers accompanied by an affidavit/affirmation of service. No courtesy copies are necessary.
- (c) Motion papers must be accompanied by proof of payment to the County Clerk of all required fees.
- (d) All affirmations, affidavits and memoranda of law must contain numbered pages.
- (e) All citations must be to an official state reporter, if available.
- (f) All documents required to decide the application must be attached. It is not sufficient that documents may be on file with the Clerk of the Court.
- (g) The Court does not accept sur-reply papers or correspondence filed after the submission of the motion.
- (h) Motion papers, orders and judgments must be accompanied by a stamped, self-addressed envelope. Counsel must provide an additional copy of any order and judgment submitted to conform to the original.
- (i) All motions will be decided by submission and personal appearances on the return date are not required unless the Court specifically directs oral argument.
- (j) Motions for summary judgment may not be filed later than one hundred and twenty (120) days after the note of issue is filed.

ADJOURNMENTS:

- (a) Adjournments of scheduled trials and hearings are not permitted except as provided in 22 NYCRR §125.1 and in accordance with the procedure set forth therein.
- (b) Adjournments of motions and conferences may be obtained on consent of opposing counsel. After obtaining such consent,

the requesting party must contact the Court's calendar clerk, Lori Connors 431-1725 to obtain a new date. All adjournments must be confirmed in writing to the Court, by the requesting party, and a copy of the letter sent to all parties. No more than two adjournments shall be permitted on any matter unless written application is made to and approved by the Court. *Adjournments are only granted with leave of the Court.*

SETTLED AND DISCONTINUED CASES:

Counsel shall immediately notify the Court of a case disposition, *in writing*. Defendant is directed to comply with 22 NYCRR §202.28.

FIDUCIARY APPOINTMENTS:

(a) In order to be eligible for appointments to serve as a referee, court evaluator, guardian ad litem, receiver, attorney for receiver or attorney for an Alleged Incompetent Person (AIP), counsel must appear on the Part 36 list promulgated by the Office of Court Administration.

(b) In order to be eligible for appointment to serve as attorney for a child (*f/k/a* law guardian) counsel must be a member of the Dutchess County Law Guardian Panel.

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).

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 Civil Calendar Office 845-431-1720.

ELECTRONIC FILING

All documents in mandatory e-filed cases, except documents subject to the opt-out provision of Section 202.5-bb of the Uniform Rules for the New York State Trial Courts, or documents subject to e-filing in which consent is being withheld, 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/HARD COPIES

It is necessary to provide working/hard copies *directly to Chambers* when E-Filing.