

HON. SHAWN T. KELLY Part IA-29

Matrimonial Part, Room 623

851 Grand Concourse

Bronx, NY 10451

Phone: (718) 618-1248

Courtroom Part Clerk: Mattea Harmon, BxSupCiv-IA29@nycourts.gov

Chambers: (718) 618-1907

Principal Court Attorney: Avana M. Desai, Esq., amdesai@nycourts.gov

Assistant Law Clerk: Kate M. Rael, Esq. krael@nycourts.gov

GENERAL

- All parties and their counsel must appear at all appearances, unless otherwise directed by the court.
- Counsel and litigants (represented or self-represented) are advised that Justice Kelly, his Law Clerks, and Part Clerk will not engage in any *ex parte* communications.
- Counsel must notify the Court, as soon as practicable, by conference call or e-mail, of any settlement or resolution of active cases or pending motions, to avoid the unnecessary use of Court resources on matters that are resolved or will imminently be resolved.
- All attorneys and self-represented litigants must provide their contact information, including email address and telephone number.

COMMUNICATIONS WITH THE PART CLERK AND CHAMBERS

- DO NOT call Chambers regarding scheduling matters and requests for adjournments.
- All requests for adjournment must be approved in advance. Without prior approval, a stipulation will not be accepted and any failure to appear will be considered a default.
- To make your request, please email Avana M. Desai, Esq., amdesai@nycourts.gov and Kate M. Rael, Esq., krael@nycourts.gov **at least two (2) days prior to the scheduled appearance with all other counsel carbon copied.** All adjournment requests must provide a reason for the request. If approved, you will receive a new date and further instructions, such as submitting a stipulation.
- NO *ex parte* communications.
- Unless specifically instructed, please do not call or email chambers. If specifically instructed to call chambers regarding a pending matter, such call may be placed only by attorneys or *pro se* parties if not represented by an attorney. No law office employees, assistants, or aides may call chambers.
- Do not copy the Court on letters exchanged between counsel.
- If a motion has been withdrawn or the case has been settled or otherwise discontinued, please notify the Part Clerk and all affected parties immediately.

E-FILING

- New contested matrimonial cases are encouraged to be e-filed through the New York State Courts E-filing (NYSCEF) system. Where possible, conversion to e-filing of older cases is also encouraged.

MOTION PRACTICE

- All motions shall be made by Order to Show Cause unless otherwise directed by the court.
- Motion Sequence Number: the first page of every motion paper (notice of motion, opposition, reply, exhibits, etc.) must reflect the respective motion sequence number in the upper right corner.
- Working copies or courtesy copies of motion papers are NOT required and will not be accepted unless requested by the Court.
- Counsel should not submit a single .pdf file under a single document number for all papers submitted on a motion. Each e-filed document must have its own, respective document number (e.g. Doc # 15, Notice of Motion; Doc # 16, Attorney Affirmation; Doc # 17, Affidavit; Doc # 18, Exhibit A; and Doc # 19, Exhibit B).
- Exhibits:
 - Each page in any exhibit must be numbered. Reference to any exhibit must include pinpoint citations to the exact page within the exhibit.
 - All exhibits electronically submitted must be described in the heading of the attached exhibit (e.g. Exhibit A, Bill of Particulars; Exhibit B, Photographs), so that it is known what document is filed in the exhibit.
- Once motions are fully submitted, the Court will not allow any further submissions. Letters to the Court after oral argument or full submission regarding a pending motion that was fully submitted will not be accepted.
- Any party seeking immediate injunctive relief within an OSC must appear with the affected adversary or proof the adversary was notified but declined to appear when the application is presented for signature.
- Any motion seeking an order transferring Family Court proceedings to Supreme Court must clearly specify which proceeding(s) the party seeks to have transferred to Supreme Court and the basis therefor. The motion must contain a copy of the Family Court petitions and any pertinent orders.

ORDERS OF PROTECTION

- Ex-parte requests for orders of protection must be accompanied by a completed Family Protection Registry Information Sheet and the applicant must be present in court.

SUBPOENAS

- Counsel is reminded of their authority to issue subpoenas under applicable law. All subpoenas submitted to chambers must be on notice unless otherwise instructed by chambers. Subpoenas seeking documents from a state agency or municipality must be served in compliance with CPLR 2307.

DISCOVERY MOTIONS

- Discovery motions are strongly discouraged.
- If a discovery dispute arises, any party, *in lieu* of filing a motion, may request an expedited conference by calling the Part Clerk. Conferences requested on an expedited basis will be granted only at the Court's discretion.
- If a party has made a formal discovery motion, a conference will be scheduled for the same date as oral argument and will be conducted prior to counsel being heard on the motion.

VIRTUAL CONFERENCES

- Parties will receive a Microsoft Teams link from the Part Clerk when a virtual appearance is scheduled.
- At or before the preliminary conference, parties must provide the court with copies of Statements of Net Worth. Parties shall also submit a child support worksheet and proposed parenting plan when applicable.
- Parties, attorneys, and all members of court proceedings are expected to appear online promptly, 5 minutes before the official start time of the proceeding.
- Parties and counsel are to download any necessary software in advance and to test their ability to participate through audio and visual equipment, also in advance. Although all conference invitations will include a telephone dial-in as a backup, video appearances are required whenever possible.
- Any party appearing in virtual court must take reasonable steps to ensure that their child(ren) are not present in the room or within hearing range of the proceedings. Where this is not feasible, counsel for the affected party must notify the Court and all other counsel immediately. When such notice is received, the Court will evaluate the situation and determine if the hearing should proceed. In some situations (i.e., where the party affected is not testifying), headphones or similar technology may make it possible to proceed when a child or children might need to be present. The Court will make this determination on a case by-case basis. Headphones should be worn by the parties even if the children are not in the same room.
- In the event that a private conversation is requested by counsel with their client, the court proceeding will pause and allow for the parties and counsel to **mute the remote appearance and connect via phone or other means, off of the official record.**
- Any recording of the video or audio, or taking photos or screenshots of a remote appearance is **prohibited** (22 NYCRR Parts 29, 131).

SETTLEMENT CONFERENCES

- The parties may contact the court attorneys to request a settlement conference at any time and are encouraged to do so shortly after discovery is completed. Requests should be made to the court attorneys via email with all parties copied. Conferences will be scheduled at the court's discretion.

TRIALS

- Parties shall exchange and file with the court the following documents at the pre-trial conference, if any, or at least two weeks prior to the first day of trial if there is no pre-trial conference:
 - (i) statement of proposed disposition;
 - (ii) updated statement of net worth;
 - (iii) most recently filed tax returns;
 - (iv) witness list; and
 - (v) exhibit list (with pre-marked exhibits).
- If the trial concerns the issue of custody only and involves no financial issues, the parties shall file

a proposed parenting plan instead of a statement of proposed disposition and need not file an updated statement of net worth. Attorneys for children, if any, may file a proposed parenting plan if they wish to do so, and shall also exchange and file witness and exhibit lists.

- Prior to the pre-trial conference, the parties shall attempt to execute a stipulation as to: (i) the authenticity and admissibility of exhibits; and (ii) undisputed facts.
- Upon the first Pre-Trial Conference before this Court, the parties must furnish the following:
 - A list of proposed witnesses, including the need for any interpreters with the required language and dialect;
 - An estimate of required trial days;
 - All marked pleadings;
 - All prior decisions in the case, including any appellate decisions;
- Parties are strongly encouraged to have the court stenographer pre-mark all exhibits for identification and/or evidence if without objection.
- It is the duty of counsel, not court personnel, to ensure all subpoenaed documents have arrived.
- Trial dates scheduled by the court are firm and may only be adjourned upon application based upon an emergency. No adjournments will be granted unless the court concludes, in rare instances, that good cause exists.

JUDGEMENTS

- All judgments shall include a completed copy of the Matrimonial Term Clerk Offices' contested judgment check list indicating all necessary attachments. All judgments must be submitted within 60 days or the action will be deemed abandoned and dismissed. All QDROs must be submitted within 45 days of the signing of the judgment and must be accompanied by written plan approval. Counter judgments must be submitted within the statutory time limit or they will be rejected.