

COURT RULES

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SUFFOLK COUNTY SUPREME COURT MATRIMONIAL PART RULES FOR ATTORNEYS AND SELF REPRESENTED LITIGANTS

ADJOURNMENTS OF HEARINGS

- 1. On Consent** All requests for a consent adjournment, must include the consent of the Attorney for the Child(ren) (when appointed), must be in writing and indicate the reason for the adjournment, the index number, appearance date, and suggest three proposed adjourned dates, and faxed to the Court at 631-853-4535 **at least 48 hours prior** to the scheduled date. All requests must include the attorney's fax number and phone number. Upon the Court's granting an adjournment, same must be confirmed in writing on notice to all parties, and the Attorney for the Child(ren) (when appointed), and faxed to the Court at 631-853-4535.
- 2. No Consent** All adjournment requests that are not on consent of the opposing party must be in writing indicating the reason, on notice to all parties and the Attorney for the Child(ren) (when appointed), and faxed to the Court at 631-853-4535 **at least 48 hours prior** to the scheduled date. All requests must include the attorney's fax number and phone number. Upon the Court's granting an adjournment, same must be confirmed in writing on notice to all parties, and the Attorney for the Child(ren) (when appointed), and faxed to the Court at 631-853-4535.
- 3. Voicemail** Adjournment requests which are left on the Chamber's Voice Mail shall be disregarded.
- 4. Attorney for the Child(ren)** When applicable, notice to or the consent of the Attorney for the Child(ren) must be obtained before an adjournment application will be considered.

5. Engagement of Counsel Requests predicated upon engagement of counsel must be by affidavit or affirmation conforming with 22 NYCRR §125.1(e) and must include:

- the basis for the priority to be afforded the other appearance;
- the name of the case in which the engagement is required; the nature of the proceeding, the court, and where known, the assigned jurist;
- the date such engagement was incurred and whether the other court was made aware of the court date for which the adjournment is sought.
- the date and time the engagement is to commence and the date and time of its probable conclusion.

6. Trials

- Parties and counsel **must** appear on the scheduled date unless excused by the Court. Consent adjournments will not be granted absent the express permission of the court.
- If a case has been scheduled for trial at least two months in advance and an attorney scheduled to try the case is actually engaged on trial elsewhere, he or she must provide substitute trial counsel. If neither trial counsel is ready for trial on the scheduled date, the Court may in its discretion impose sanctions (22 NYCRR §125.1(g)).

7. Motions Motions may be adjourned upon consent of all parties. Said adjournments will be granted only upon written application to the court (fax is acceptable) indicating that all parties have consented to the adjournment. Failure to have responsive papers filed prior to a determination of the motion, shall result in the motion's determination without opposition. If a TRO (Temporary Restraining Order) was granted, such information must be provided to the Court. There shall be no more than three stipulated adjournments without permission of the Court (22 NYCRR §202.8(e)).

APPEARANCES

Appearance in Court THE APPEARANCE OF BOTH PARTIES AND COUNSEL IS **REQUIRED** for all hearings and trials. Where the Court has waived the absence of a party, he or she must be available by telephone. Unless, the Court has ordered or directed otherwise, all motions are submitted by papers only.

COMMUNICATIONS WITH THE COURT

ExParte Neither counsel nor parties shall initiate ex parte communications with the Court concerning substantive matters.

Telephone Conferences Telephone conferences must be prearranged with chambers. The requesting party shall be responsible for setting up the conference.

Written Correspondence Copies of correspondence between counsel shall not be sent to the Court. Such copies will be disregarded and not placed in the Court's file.

MOTIONS

- No sur-reply affidavit, affirmation, memorandum of law or letter will be accepted or considered by the Court without leave of the Court.
- Counsel are requested to provide the Court with self addressed stamped envelopes with the submitted papers in order to facilitate delivery of the Court's decision.
- Upon settlement of a pending motion, counsel shall immediately notify chambers.

Memoranda of Law Where unique or novel issues of law are presented, counsel should submit memoranda of law in support of their respective positions.

POST JUDGEMENT APPLICATIONS

An application to the Court for post judgement relief must be by order to show cause.

Service Orders to show cause for post judgment relief shall not provide for service on the opposing party's prior attorney unless the supporting papers state and demonstrate that said attorney has authority to accept such service. Service shall be required on the opposing party in the same manner required to initiate a special proceeding.

Custody/Parental Access/Visitation Issues The moving papers must identify any previously appointed Attorney for the Child(ren).

EX PARTE APPLICATIONS

Notification of Application for Temporary Relief On any application for ex parte relief, the movant must identify counsel for the opposing party, if any, and must include a sworn statement that counsel or the self represented litigant was notified of the date,

time and place the application would be made, sufficient to permit the party an opportunity to appear in response, except where preservation of marital assets or child custody could be compromised by such notification and there is a showing of significant prejudice (22 NYCRR §202.7(f)).

Continuation of Ex Parte Relief Where the consent of the opposing party cannot be obtained, oral applications to continue or vacate any ex parte relief contained in an order to show cause shall be made on the return date of the motion. All parties and counsel are required to appear for oral argument.

Withdrawal of Counsel An attorney moving for permission to withdraw as counsel **must** advise the Court whether or not there are pendente lite or other motions pending, and if a hearing or trial has been scheduled that would be delayed by the granting of the attorney's application.

Consent to Change Attorney If parties who are represented consent to change attorneys, they must file a fully executed Consent to Change Attorney form with the Court. If represented parties consent to proceed pro se, appearances are required by the parties and outgoing counsel.

APPOINTMENT OF NEUTRAL EXPERT WITNESSES

On its own initiative or on consent of the parties, the Court may appoint a neutral expert witness. The Court in its discretion shall make a direction as to which part[ies] shall advance the expert witness' fee for production of the report and for testifying, subject to reallocation by the Court upon application of either party.

- Where the parties consent to the appointment of a neutral expert the stipulation must provide that the qualifications of the expert will not thereafter be challenged.
- In the discretion of the Court, the expert's written report may be used to substitute for direct testimony at the trial.
- The expert reports shall be submitted under oath by the expert who shall be present and available for cross-examination (22 NYCRR §202.16 (g)).

TRIALS

Trial Date Failure to be ready to proceed on a scheduled trial date may result in a dismissal of the cause of action, or any other order as appears just (22 NYCRR §202.27).

Expert Witness Reports Counsel are reminded that pursuant to 22 NYCRR §202.16 (g) (2), all expert reports are to be exchanged and filed with the Court sixty (60) days before the date set for trial. Reply reports, if any, shall be exchanged and filed with the Court no later than thirty (30) days before said date. It is counsel's obligation, to ensure that expert witnesses are available to testify on the trial date. Failure to have experts or their reports available on the trial date may result in the preclusion of the expert's testimony and report.

Evaluations In the event there are any valuations of a business interest or increased earning capacity, then a "cash flow" chart shall be submitted by each side, listing counsel's proposal for payment thereof, as well as any other payments claimed due (such as payor's obligations for maintenance, child support, income taxes, etc.).

Trial Exhibits To the extent possible, all trial exhibits, whether stipulated to or contested, shall be pre-marked as evidence or for identification, prior to the commencement of the trial. The trial exhibits markings should be made by the Court Reporter at least one (1) day prior to trial, whether or not the admissibility is contested. Counsel must make arrangements to do so. As to those exhibits marked for identification, the Court will address their admissibility during the trial, as may be appropriate. The party offering any exhibit shall provide the original plus three copies, unless a trial notebook is prepared.

Trial Notebook If deemed appropriate by the Court, based on the facts and circumstances of the particular case, parties shall submit notebooks with all listed exhibits separately and consecutively tabbed (numbers for Plaintiff and letters for Defendant), with the original documents for the witnesses and a copy for the Court. (To expedite the trial a similarly marked notebook should be provided for the Court.) At the conclusion of the trial all exhibits not received into evidence will be removed from notebooks and returned to counsel.

Marked Pleadings Marked pleadings, in accordance with CPLR § 4012 are to be filed with the Court before opening statements.

Witness Lists A witness list is to be filed with the Court by each party.

Expert Witness Lists A list of all expert witnesses with copies of their reports are to be filed with the Court by each party.

Net Worth Statements The net worth statements need to be updated within (30) days of trial and submitted to the Court.

Statement of Stipulated Facts Parties are encouraged to stipulate to facts and/or exhibits.

Deposition Transcript If a deposition transcript is to be utilized, a copy of the witness' deposition transcript should be available to the Court.

Objections All objections should be stated without argument except to simply state the ground therefor, i.e., hearsay, relevance, etc. If further argument is appropriate, it will be invited by the Court.

Post Trial Submissions Upon request of the Court, each counsel shall prepare and submit a post-trial Memorandum of Proposed Findings of Fact and Conclusions of Law. Post-trial memoranda shall have a table of contents. Legal arguments are to be supported by relevant case law and contain proper legal citations. The Court may direct one or both parties to provide a transcript of the trial. Factual arguments must refer to the appropriate page and line of the transcript.

SETTLEMENTS

Where a case has been settled prior to the trial date or any other court date, in lieu of appearing in Court, chambers **must** be notified in writing in advance that a stipulation has been executed by both sides resolving all outstanding issues, and the first page, signature page and acknowledgment page of the stipulation must be faxed to the Court at 631-853-4535.

No case shall be marked as settled or disposed unless an oral stipulation has been placed on the record or written notification (as above) is submitted to chambers confirming that a stipulation of settlement has been executed by both sides.

Judgment Submissions Calendar At the time of settlement, the case will be adjourned to a judgment submission calendar to assure that the judgment and supporting documents are timely submitted.

Submission of Proposed Judgments

- Proposed judgments must be submitted within 60 days of the date the case was marked settled by the Court unless extended by the Court for good cause. Counsel for the submitting party must notify chambers in writing when the proposed judgment has been filed with the clerk's office. If the proposed judgment has not been submitted, all parties and counsel shall appear on the judgment submission date. Requests for extensions must be in writing and supported by good cause.
- Proposed judgment submissions rejected for noncompliance with the Rules of the Chief Judge or any other deficiency must be resubmitted to the Court within thirty (30) days of the notice of

rejection. A failure to comply may result in restoration of the case to the calendar for appearance by all parties, or a dismissal of the action. Requests for extensions must be in writing and supported by good cause.

Outstanding motions Motions pending at the time a case is marked settled by the Court will be deemed withdrawn unless explicit provision is made for their continuance.

STIPULATION DISCONTINUING ACTION

If parties wish to discontinue the action, they shall submit a fully executed Stipulation Discontinuing Action in Matrimonial Matter and file same with the Matrimonial Clerk's Office with a copy to this Court.

APPLICATIONS TO RESTORE CASES TO THE CALENDAR

An application to restore a case dismissed or marked off the calendar and deemed abandoned pursuant to CPLR §3404 **must** be by motion unless the party was granted leave to restore on letter notice.

MISCELLANEOUS

Conferences/Trial If there are any outstanding motions (submitted or pending) at the time of the conference/trial the Law Secretary and/or Judge must be so informed of same that day; the submission date must be provided by counsel. Copies of such motions should be available to the Court at the time of such conference.

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