

INDIVIDUAL PART RULES OF
**JUSTICE ROBERT A. ONOFRY, SURROGATE/ACTING JUSTICE OF
THE SUPREME COURT**

Law Clerk: Michael O'Brien, Esq.

Supreme Court Part Clerk: Eileen Baer (845) 476-3617
Secretary: Lorraine Acton (845) 476-3615
Supreme Court Fax: (845) 476-3502

Surrogate Court Main # (845)476-3655
Surrogate Court Fax # (845) 291-2196

E-FILING RULES OF THE COURT

E-Filing Rules and Protocol

All parties must familiarize themselves with the statewide E-Filing Rules Uniform Rule §§ 202.5 and 202.5-bb - available at www.nycourts.gov/efile and the Orange County E-Filing Protocol. 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 Chief Clerk's Office (845) 476-3429.

Electronic Filing (currently optional)

Supreme Court actions in the Hon. Robert A. Onofry's Part may be filed through the New York State Courts E-Filing system (NYSCEF). All submissions to the Court, including proposed orders, proposed judgments, and letters, may be electronically filed.

Working Copies

A court may require the submission of "working copies" of electronically filed documents. See Uniform Rule § 202.5-b(d)(4).

This Part only requires working copies for proposed Orders to Show Cause and proposed Orders/Judgments. Working copies shall be delivered or mailed directly to Judge Onofry's Chambers located at 30 Park Place, Goshen, New York.

All working copies submitted to this Part must include a copy of the NYSCEF Confirmation Notice firmly fastened as the front cover page of the submission and comply with other requirements set

forth in the Orange County Protocol. Working copies without the Confirmation Notice will not be accepted.

Working copies are to be submitted to Chambers within 48 hours of the electronic filing of the document on the NYSCEF site.

Hard Copy Submissions

This Part will reject any hard copy submissions in e-filed cases unless those submissions bear the “NOTICE OF HARD COPY SUBMISSION - E-FILED CASE” form required by Uniform Rule § 202.5-b(d)(1). The form is available at www.nycourts.gov/efile.

Scheduling

Counsel/parties should address questions about scheduling appearances or adjourning appearances to the Part Clerk Eileen Baer at (845) 476-3617. All adjournment requests must be in writing and on consent, as set forth below in the General Rules of the Court.

GENERAL RULES OF THE COURT

I. COMMUNICATION WITH THE COURT

A. Correspondence: All correspondence to the Court shall be copied to all parties and set forth the name and Index number of the case to which it pertains.

For all cases that are commenced through e-filing, correspondence must be electronically filed.

Otherwise, correspondence may be mailed or faxed. However, parties are not permitted, **absent prior approval, to send fax transmissions to the Court that exceed five (5) pages in length.**

Correspondence between attorneys and/or *pro se* litigants shall not be copied to the Court absent some specific purpose for the Court to be made aware of the same.

B. Telephone Calls: Telephone calls shall be limited to situations requiring immediate attention which cannot be addressed by written correspondence. **Requests for adjournments WILL NOT be entertained by telephone.**

C. Faxes: The fax number for **Supreme Court** matters, other than those which require electronic filing, is (845) 476-3502.

All **Surrogate** Court matters should be faxed to (845) 291-2196.

Neither the Chambers nor the clerk shall accept faxed copies of papers that must otherwise be filed in original form with the Office of the Clerk (such as objections, petitions, proofs of service, motions, opposition to motions, replies, proposed orders and documents to be “So Ordered”).

All faxes to the Court must be sent contemporaneously to all other parties, and the originals

of the same must be sent to the Court via regular mail. Counsel are not permitted, **absent prior approval, to send fax transmissions to the Court that exceed five (5) pages in length.**

D. Ex Parte Communications. Ex parte communications with the Court are strictly prohibited, except where an Order to Show Cause is submitted for signature, or upon consent of all parties during settlement negotiations.

Court Conferences and Calendar Calls: All of Judge Onofry's Supreme and Surrogate Court Conferences and Calendar calls are held at the Orange County Surrogate's Courthouse located at 30 Park Place, Goshen, New York. The schedule is as follows:

Tuesdays at 1:30 p.m.	Supreme Court Calendar
Wednesdays at 9:15 a.m.	Supreme Court Calendar
Wednesdays at 1:30 p.m.	Surrogate's Court Calendar

Settlement conferences in any matter may be conducted in Chambers where permitted and appropriate. **Counsel must be fully familiar with the matter(s) on which they appear and must be authorized to enter into both substantive and procedural agreements on behalf of their clients.** Counsel must be on time for all scheduled appearances, and must bring sufficient materials to allow meaningful discussion of all unresolved issues. Attorneys appearing "of counsel" to an attorney of record, and parties appearing *pro se*, are held to the same standards.

Adjournments: As a matter of general practice, requests for adjournments of motions, conferences, fact findings, hearings and trials are discouraged. **All adjournment requests must be in writing and either on consent of all parties, or on prior notice to such parties. NOTE: A request for an adjournment, even if on consent of all parties, is NOT effective unless and until approved by the Court.**

Applications for adjournments must be made in writing and received by the Court (by e-filing, letter or facsimile) **not less than forty-eight (48) hours in advance of the scheduled conference, etc.** and shall state: (1) good cause why the adjournment is being sought, and (2) whether the other parties consent or object to the application. The party seeking the adjournment may also suggest an approximate time period for the adjournment, and/or a date certain to which the conference, etc. should be adjourned. All communications with the Court must be contemporaneously copied to all other parties and *pro se* litigants in accordance with the correspondence rules above. All requests for adjournments of a trial, fact finding or hearing submitted after the scheduling of the same, shall be subjected to the strictest scrutiny.

II. MOTION PRACTICE

Motion Calendar and Appearances: All motions/proceedings brought on by notice of motion or notice of petition shall be made returnable before the Court on any **WEDNESDAY** the Court is in session (**as outlined above**). **Appearances are not required on motions unless oral argument is requested in writing and granted.**

Time for Filing and Serving Summary Judgment Motions: Summary judgment motions shall be filed with the Court **and** served upon all other parties no later than **one hundred twenty (120)** days after the filing of the Note of Issue. If an application to extend the time to make such a motion has been granted by the Court, the moving party must so state in the motion papers.

Disclosure Motions: It is the policy of this Court to make itself and its staff available to resolve disputes related to pretrial disclosure. Therefore, if a dispute over disclosure arises that cannot be resolved by the parties' own diligent, good faith efforts, the aggrieved party shall notify the Court and a conference will be scheduled. **A motion related to disclosure is not to be made by any party, in any type of proceeding, unless authorized by the Court after conferencing fails.**

COUNSEL SHALL IMMEDIATELY NOTIFY THE COURT WHEN IT BECOMES UNNECESSARY TO DECIDE A MOTION. FAILURE TO DO SO MAY RESULT IN SANCTIONS.

Submission of Orders and Judgments: An order or judgment shall be submitted with an affidavit of service, and be noticed for settlement on a date which complies with 22 NYCRR 202.48. Proposed Judgments/Orders shall be submitted on all unopposed motions.

A conformed copy of an order or judgment will be mailed back to the submitting party **ONLY WHEN IT IS ACCOMPANIED BY A SUFFICIENTLY STAMPED, SELF-ADDRESSED ENVELOPE.**

III. TRIALS

Pretrial Settlement Conference: At the pretrial conference, all counsel must be present and prepared to engage in good faith settlement negotiations. All counsel must be vested with the full authority to negotiate and settle the matter.

All parties and insurance carriers are to either be present or available by telephone.

A party represented by an attorney without authority to negotiate and settle the matter may be considered in default, and the Court may issue appropriate orders pursuant to CPLR 3215 and 22 NYCRR 202.27.

For motor vehicle and most other personal injury cases, the issues of **liability and damages are bifurcated for trial**, with sufficient time between the end of the liability phase and the commencement of the damages phase to explore settlement options and to schedule necessary witnesses, etc. If there is a compelling reason for the issues to be tried together, counsel must raise that issue with the Court as soon as possible, and in no event later than the filing of the Note of Issue and the scheduling of a trial date.

Jury Charges: In all jury trials, a complete list of requests to charge shall be submitted to the Court immediately preceding the commencement of trial, with copies to be provided to all other counsel and self-represented parties. If a requested charge is drawn from the current Pattern Jury Instructions (PJI), only the number of the same need be submitted. If deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedent. In addition, such proposals shall be submitted in a format convertible to Word Perfect and submitted to the Court's Law Clerk at mdobrien@nycourts.gov

Verdict Sheet: The parties shall jointly prepare and submit a verdict sheet to the Court. If agreement cannot be reached as to the same, each party shall prepare and submit a proposed verdict sheet to the Court and other parties. A proposed verdict sheet must be in a final typewritten form sufficient to submit to the jury. The proposed verdict sheet shall also be submitted in a format convertible to Word Perfect to mdobrien@nycourts.gov

Post-Trial Submissions: Motions brought by a party after jury trial pursuant to CPLR 4403 or CPLR 4404 must be supported by a copy of the trial transcript.

Unless otherwise directed by the Court, in accordance with the schedule set by the Court at the conclusion of a bench-trial or hearing, the parties shall jointly submit a trial transcript, and each party shall prepare and submit a post-trial memorandum.

Settled and Discontinued Cases: Counsel shall immediately notify the Court of a settled or discontinued matter. Following the initial notification, counsel shall file a fully executed duplicate original stipulation of discontinuance with the County Clerk and the Part Clerk.