

**HON. KATHLEEN WATERMAN-MARSHALL**  
**SUPREME COURT, NEW YORK COUNTY**  
**IAS PART 9, Matrimonial Division**  
**60 Centre Street, Room 355**  
**New York, New York 10007**  
**Chambers: (646) 386-4289**

**Principal Law Clerk:** David B. Collins, Esq.  
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**CALENDAR**

- **CONFERENCES: Tuesdays and Wednesdays**
  - Before the Judge: Tuesdays** (\*\*In Person)
    - Preliminary Conferences*
    - Trial Scheduling Conferences*
    - Pre-Trial Conferences*
  - Before Law Clerks: Tuesdays and Wednesdays** (\*\*In Person and Virtual)
    - Compliance Conferences*
    - Status Conferences*
- **MOTIONS: Tuesdays and Wednesdays**
  - Unless otherwise directed, oral argument is in person, on the record, and parties are required to attend.
- **REQUESTS FOR EMERGENCY INTERIM RELIEF: As Scheduled By Court**
  - All requests for emergency interim relief are in person, on the record, and parties are required to attend.
- **TRIALS, HEARINGS, SETTLEMENT CONFERENCES: Mondays, Thursdays, Fridays**  
(\*In Person)
- **RULES RELATING TO PARENTAGE PROCEEDINGS (FCA Article 5-A) AND SPECIAL PROCEEDINGS (CPLR Articles 75 & 78)** (see page 6).

**VIRTUAL PART 9 MICROSOFT TEAMS LINKS**

- **Part 9 Virtual Courtroom** (Justice Waterman-Marshall): <https://notify.nycourts.gov/meet/0avpkm>
- **Virtual Conference Room** (Law Clerks): <https://notify.nycourts.gov/meet/0avpnb>
  - *You are prohibited from recording video or audio, or taking photos or screenshots (22 NYCRR Parts 29, 131)*
- **Decorum for Virtual Appearances:** The Court and chambers expects everyone to conduct themselves with the same level of civility and professionalism as if they were in the physical courtroom. Please test your microphones and cameras in advance and be sure to use a quiet room or location with minimal background noise. Counsel will have an opportunity to speak in the normal course and are prohibited from interrupting or speaking over one another.

## GENERAL PART RULES

- *To create opportunities for attorneys knowledgeable with the subject matter of the action, and who historically have been underrepresented in the Matrimonial Division, courtroom participation of such attorneys is strongly encouraged. This could be achieved by giving a less senior, knowledgeable colleague speaking and leading roles in the courtroom, such as the oral argument on a motion for which they prepared the papers.*

### COMMUNICATIONS.

- All correspondence with the Court and chambers shall be by letter filed to NYSCEF.
- Emails to the Court and chambers are permitted in emergency circumstances. Emergency issues are those in which the parties or children are in imminent risk of harm.
- **Litigation by email is strictly prohibited.**
- **Ex parte communications with the Court are strictly prohibited.**
- The following documents, which require Court attention, should be e-filed to NYSCEF:
  - Stipulations to be So-Ordered;
  - Subpoenas for signature;
  - Proposed Orders and Judgments for signature.

### ADJOURNMENTS.

- *Adjournment requests require Court approval and will be addressed by the Law Clerk on the scheduled appearance date on the Virtual Conference Room Microsoft Teams Link.*
- Counsel, or someone from their office with authority to handle their office calendar matters, is required to appear before the Law Clerk on the scheduled appearance date, at which time the request will be addressed and a new date picked.
- **At least one day prior to the scheduled appearance**, counsel must give the Court notice of the intent to request an adjournment by e-mail directed to the Law Clerk and, where applicable, provide an affirmation of actual engagement.

**APPEARANCES.** Counsel and their clients must be present on any calendared court date unless expressly excused by the Court. All matters are scheduled for times certain before the Judge or the Law Clerk and will be started at the designated time.

**MATRIMONIAL MEDIATION AND NEUTRAL EVALUATION PROGRAM.** Part 9 is a presumptive Matrimonial mediation part, which means that eligible cases may, at the Court's discretion, be referred to mediation or the neutral evaluation program.

**TEMPORARY ORDERS OF PROTECTION.** Any request for issuance of a temporary order of protection must contain the Family Protection Registry Information Sheet, and the party must be present.

[https://www.nycourts.gov/LegacyPDFS/FORMS/familycourt/pdfs/info\\_she.pdf](https://www.nycourts.gov/LegacyPDFS/FORMS/familycourt/pdfs/info_she.pdf).

## CONFERENCES AND DISCOVERY.

### ❖ **Preliminary Conference:**

- A preliminary conference shall take place on the first appearance or the return date of the first motion, unless otherwise directed by the Court.
- Counsel for all parties shall consult prior to the preliminary conference about the substantive issues and discovery and shall make a good faith effort to reach agreement on these matters, whether in whole or in part, in advance of the conference.
- At least one (1) day prior to the preliminary conference, counsel or parties must upload to NYSCEF:
  - a completed and signed matrimonial Preliminary Conference Order;
  - Statements of Net Worth; and
  - where applicable, a child support worksheet and proposed parenting plan.
- Counsel and/or parties must bring to the Preliminary Conference a hard-copy of the proposed Preliminary Conference Order, signed by the parties and the attorneys.
- Parties and counsel should be prepared to discuss all substantive issues in the case, including settlement, to the extent possible.
- ***Pendente lite* issues may be resolved at the preliminary conference.**

### ❖ **Compliance and Status Conference:**

- At least one (1) day prior to any Compliance and Status Conference, the attorneys must upload to NYSCEF a joint completed ***Compliance Conference Order*** or a joint completed ***Status Conference Order***, as appropriate, on the Part 9 forms, to be So-Ordered by the Court.
- Counsel shall be prepared to discuss, in detail, any discovery disputes, which will be resolved at the conference as discovery motions are strongly discouraged.
- Counsel shall also be prepared to discuss, in detail, any non-discovery issues in the case.
- Failure to upload a Compliance Conference Order or Status Conference Order, as required, or be prepared to address open discovery disputes may, in the Court's discretion, constitute a waiver of claim for discovery sanctions.

- ❖ **Emergency Conferences:** If an ***emergency issue*** regarding a pending matter arises, a brief e-mail may be sent to the Law Clerk requesting a conference call ***only after the parties and counsel attempted in good faith to resolve the issue without Court assistance***. An emergency issue is one in which the child(ren) or a party is in imminent risk of harm.

### ❖ **Discovery:**

- **Bates Numbering.** Counsel/parties must utilize Bates numbering/stamping in the production of documents. The Compliance Conference and Status Conference Orders require the identification of Bates numbers.
- **Demands and Responses.** All discovery demands and the written responses thereto (not including the Bates numbered documents) must be filed to NYSCEF. The Compliance Conference and Status Conference Orders require the identification of NYSCEF document numbers for discovery demands and written responses.
- **Interrogatories.** The use of interrogatories is encouraged, especially in matters with complicated financial issues. Interrogatories and responses thereto must be filed to NYSCEF.

## MOTIONS.

- All motions shall be made by Order to Show Cause.
- ***The Court strongly discourages motion practice and will readily decline to sign proposed Orders to Show Cause if they do not comply with these rules.***
- Parties may move, *without Court permission*, for the following relief:
  - *pendente lite relief* (to extent not resolved at Preliminary Conference);
  - a declaration as to the validity of a pre- or post-nuptial agreement (or other dispositive document); and
  - for emergency orders of protection or other orders where there is a demonstrated imminent risk of harm to the child(ren) or one of the parties.
- Otherwise, ***no motion shall be made without the Court's written permission*** and such permission will only be granted where the attorneys first demonstrate that they consulted with one another in a good faith effort to resolve the issue.
- **Motion Avoidance Conference.** Where good faith efforts to resolve the issue are unsuccessful, counsel shall request, by letter directed to the Law Clerk and uploaded to NYSCEF, a “motion avoidance” conference to allow the Court the opportunity to resolve the issue.
- **Motion Return Dates and Requirements.**
  - All motions will be made returnable by the Court on Tuesdays or Wednesdays; oral argument is required on the return date unless otherwise directed by the Court.
  - Requests for emergency interim relief will be conducted on the record before the Judge as scheduled by the Court. After deciding the emergency interim relief, the Court will set the return date for the Order to Show Cause.
  - All Orders to Show Cause, Cross-Motions, and related filings must indicate the respective motion sequence number on the first page.
  - Affidavits, affirmations, and memoranda of law (exclusive of table of contents and table of authorities) *shall not exceed 25 pages each, double-spaced.*
  - The Court does not accept sur-reply papers without prior permission.
- **Letter Briefs.** In lieu of a formal motion, the Court may direct the submission of a two (2) page letter brief on a discrete issue(s), which will be resolved by short-form Order.
- Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at (646) 386-3125.

## SETTLEMENT CONFERENCES.

- ***Every single appearance is an opportunity to settle some, if not all, of the issues.***
- The Court will schedule a settlement conference in the appropriate case where the parties are seriously ready and willing to resolve their issues.
- Two days prior to the settlement conference, counsel shall e-mail directly to Justice Waterman-Marshall a spreadsheet listing each item of marital property, with their values and proposed distribution, and a statement, no more than two pages long, setting forth the rationale for their position.

## TRIALS.

- All cases scheduled for trial in Part 9 will be scheduled for a Pre-Trial Conference to take place approximately two weeks prior to the first trial date.
- Two weeks prior to the Pre-Trial Conference (or four weeks prior to the first trial date), counsel or the parties shall file and exchange the following documents:
  - (1) A statement of proposed disposition, a child support worksheet (if applicable), updated net worth statements, and most recently filed tax returns.
  - (2) A spreadsheet listing each item of marital property, with their values and proposed distribution.
  - (3) A witness list, with meaningful offer of proof for each witness.
  - (4) A list of documents which counsel may stipulate into evidence. The documents to be pre-marked as exhibits.
  - (5) Any expert reports not previously exchanged.
  - (6) Marked pleadings and any pre-trial memoranda.
  - (7) Proof of filing of the note of issue.
- At the Pre-Trial Conference, counsel may, where necessary, make motions *in limine* and shall be prepared to discuss any evidentiary issues.
- **Forensic Reports and Testimony.** The report(s) of any neutral forensic expert(s) appointed by the Court will be admitted into evidence subject to all hearsay and other proper objections. Such report(s) may be considered the direct testimony of the forensic expert(s), who shall be subject to cross-examination by the parties.
- **Prepared Direct Examination of Witnesses by Affidavit:** For financial matters, the Court permits party direct testimony by prepared affidavits in lieu of live direct testimony. The Court has a protocol for the use of prepared direct examination of a party by affidavit for custody matters; affidavits in lieu of live direct testimony for custody is permissible only upon written consent of the litigants and attorneys and is subject to certain other conditions. Counsel should be prepared to discuss use of this protocol at the Pre-Trial Conference.
- **Virtual Evidence Courtroom:** All trial exhibits shall be uploaded through NYSCEF to the Virtual Evidence Courtroom set up for the case.
- **Post-Trial Submissions:** At the completion of the trial, counsel or the parties to submit proposed Findings of Fact and Conclusions of Law; an updated (if necessary) spreadsheet listing each item of marital property, with their values and proposed distribution as established at trial; and post-trial memorandum of no more than 25 pages.

## E-FILING.

- New contested matrimonial cases in Part 9 are encouraged to be e-filed through the New York State E-Filing System (NYSCEF). The form to convert a paper case to e-filing is at <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/stipulation.and.consent.pdf>
- Please note that only documents filed after the conversion are accessible through NYSCEF, so early conversions (including before a preliminary conference) are encouraged.
- Any questions regarding the e-filing system should be addressed to the NYSCEF Resource Center at [nyscef@nycourts.gov](mailto:nyscef@nycourts.gov).

## **PARENTAGE PROCEEDINGS (FCA ARTICLE 5-C [“CHILD-PARENT SECURITY ACT”]).**

- **General Procedures.** The Court reviews Family Court Act Article 5-C Matters, including requests for anonymous caption, via applications filed through the Ex-parte Office of the Clerk’s Office.
- **Post-Birth Amended Orders.** Where a proposed Amended Order is filed to NYSCEF following the birth of the child, counsel shall inform the Court via courtesy e-mail to Law Clerk Collins.
- **Service of Signed Orders.** Neither Chambers nor the Part Clerk serve copies of signed orders, including anonymity and parentage orders, upon any party or non-party such as agencies, offices, or governments.
- Counsel shall contact the County Clerk’s Office for guidance regarding the service of signed orders, including service of orders upon offices/agencies issuing birth certificates.
- **Courtesy copies of Signed Orders.** Courtesy copies of signed parentage orders are available by appointment only. Contact the Law Clerk Collins via email to request a courtesy copy for an order of parentage and arrange a time to retrieve same from the Courtroom. Courtesy copies will not be provided absent a confirmed appointment.
- **Official copies of Signed Orders.** Official copies of orders, including copies bearing an official seal, are provided only by the County Clerk; contact the County Clerk’s Office for further guidance.

## **SPECIAL PROCEEDINGS (CPLR Articles 75 & 78).**

- **Newly Filed Article 75 & 78 Petitions.** All newly filed petitions seeking relief under CPLR Article 75 or 78, and related motions, will be taken on submission unless the Court directs otherwise, or the parties request argument via letter to the Judge and filed to NYSCEF.
- **Special Proceedings Transferred from Another Justice.**
  - Where a proceeding has been transferred to Part 9, administratively or by order, any previously scheduled future appearance date, including conference dates, motion arguments, and hearing dates, are vacated.
  - The Court will notify the attorneys of the new appearance date via Court Notice.
  - The Court will endeavor to keep previously scheduled appearance dates, or advance an appearance date, upon counsel’s request via letter to Judge filed to NYSCEF.