

**JUSTICE JOHN K. McGUIRK
ORANGE COUNTY GOVERNMENT CENTER
255 MAIN STREET
GOSHEN, NY 10924**

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**GENERAL RULES
as of May 10, 2010**

Appearances

Counsel who appear, whether of counsel or otherwise, must be familiar with the case and have authority to enter agreements for their clients. Parties whose counsel are unfamiliar with the case or without authority may be considered in default and subject to appropriate sanctions.

Settlements and Discontinuances

Counsel shall submit a stipulation or letter to the court if an action is settled or discontinued.

Fax

The court does not accept papers or letters by fax without prior permission from chambers.

MOTIONS

Return Date

Motions may be made returnable at 9:00 a.m. on any day the court is in session. The court will set the return date on orders to show cause.

Adjournments

The court will usually grant the adjournment of a motion's return date if the parties consent. An attorney seeking an adjournment must first seek the consent of opposing counsel.

If consent is obtained, the attorney must notify the part clerk of the proposed adjourned date at least 48 hours before the return date. The court will then assign an adjourned date giving consideration to the date chosen by the parties.

If consent is not obtained, the attorney may seek court approval directing the request to the part clerk at least 48 hours before the return date.

Appearances

No appearances are required on motions and no oral argument will be heard unless directed by the court. This rule does not apply to motions for *pendente lite* relief in matrimonial actions.

Papers

Papers shall be typewritten and exhibits labeled and marked with tabs. Exhibits must be legible.

All motion papers submitted in opposition or in reply, or their transmittal letter, shall state the return date of the motion.

Do not submit courtesy copies.

Reply papers shall not contain new factual assertions or legal arguments unless they directly respond to arguments made in the opposition papers. Such assertions will not be considered by the court in rendering its decision.

The court will not consider sur-reply papers or papers submitted after the return date without the permission of the court. Such papers will be filed with the County Clerk unread.

Discovery Motions

A motion shall be the last resort in resolving discovery disputes.

Counsel must first try to resolve a discovery dispute without court intervention. If counsel are unsuccessful, then they shall contact the court's law clerk and try to resolve the issue through a conference call or other mutually acceptable means. If the issue remains unresolved a court conference will be scheduled. At the conclusion of the conference the court will issue an order on the record and direct one party to submit a proposed written order. A copy of the transcript, the cost of which shall be paid as directed by the court, shall be attached to the proposed order. The court may order sanctions authorized by CPLR 3126 for a wilful failure to disclose information which ought to have been disclosed.

If, notwithstanding this rule, a party makes a written discovery motion, the court may deem it a request for a conference and schedule a conference.

Summary Judgment or Dismissal Motions

Copies of the pleadings shall be attached to a motion seeking summary judgment or dismissal of the complaint. Failure to comply will result in denial of the motion unless the pleadings are attached to other papers submitted with the motion.

Summary Judgment motions must be filed and served no later than 60 days after the filing of the note of issue

Motions to Renew or Reargue

A party moving to renew or reargue must attach copies of the papers submitted in connection with the underlying motion to the motion to renew or reargue. Failure to comply will result in denial of the motion.

Requests for Temporary Restraining Orders

Copies of the summons and complaint shall be attached to any motion seeking a temporary restraining order.

CONFERENCES

Preliminary Conferences

A discovery order shall be issued either in writing or on the record at the conclusion of a preliminary conference.

A compliance conference shall be scheduled at the conclusion of the preliminary conference.

Compliance Conference

The court will review the status of discovery at the compliance conference.

The court may issue a further order compelling discovery, or it may issue an order imposing sanctions pursuant to CPLR 3126 for a failure to obey a prior discovery order or for a wilful failure to disclose information which ought to have been disclosed.

At the conclusion of the compliance conference the court will schedule a further compliance conference or a trial readiness conference.

Trial Readiness Conference

At the trial readiness conference the court will review whether the matter is ready for trial. If a note of issue has been filed then the court will schedule a trial date and pretrial conference which will be approximately one month before the trial date. If the matter is ready for trial and a note of issue has not been filed the court will direct a note of issue be filed within twenty (20) days and schedule a further trial readiness conference.

Pretrial Conference

At the pretrial conference all counsel must be present prepared to make a good faith demand and a good faith offer. Counsel must have authority to negotiate and settle the matter. 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.

MATRIMONIAL ACTIONS

Counsel shall be familiar with and shall comply with the provisions of 22 NYCRR 202.16. Prior to the preliminary conference the parties shall file and exchange those documents set forth in 22 NYCRR 202.16(f)(1) including net worth statements, paycheck stubs, W-2 statements, tax returns and statements of account.

Parties shall appear at all matrimonial conferences unless otherwise directed by the court.

Each party must file a statement of proposed disposition (22NYCRR 202.16[h]) no later than 10 days prior to trial.

Counsel and parties are required to appear on the return date of motions seeking *pendente lite* relief.

TRIAL

Submissions Prior to Trial

Prior to the commencement of trial counsel shall submit:

1. Marked pleadings
2. A concise statement of disputed facts and the contention of the parties.
3. An exhibit list. Exhibits other than those to be used for cross examination shall be pre-marked. The court reporter will mark only those exhibits received into evidence. Counsel shall provide the court reporter with a copy of the exhibit list. Counsel shall indicate which exhibits are admissible by stipulation.
4. Request to charge. Counsel for each party shall submit a complete list of requests to charge. Unless counsel seeks a deviation from the Pattern Jury Instructions (PJI)

counsel shall only submit a list of the numbers of the pattern instructions requested. If counsel requests a charge which differs from the pattern instruction counsel must submit the full text of the requested charge, the authority for the requested charge and a copy of the case(s) on which the requested charge is based.

5. Verdict Sheet. Counsel shall consult on the preparation of the verdict sheet. If counsel agree on a verdict sheet they shall submit a copy which will be submitted to the jury. If counsel cannot agree then counsel for each party shall submit a proposed verdict sheet.

Motions in Limine

Motions in limine, except those which could not reasonably be anticipated, shall be delivered to the court and served on opposing counsel at least seven (7) days before trial.

SUBMISSION OF ORDERS AND JUDGMENTS

An order or judgment shall be submitted with an affidavit of service and noticed for settlement on a date which complies with 22 NYCRR 202.48.