



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU  
100 SUPREME COURT DRIVE  
MINEOLA, NEW YORK 11501  
Tel (516) 493-3401  
Fax (516) 571-1575

Hon. Thomas A. Adams  
Administrative Judge

Kathryn Driscoll Hopkins, Esq.  
Chief Clerk

February 28, 2014

### MEMO TO MEMBERS OF THE BAR

Dear Counsel:

On **Monday March 3, 2014**, the Nassau County Supreme Court will begin the implementation of our Centralized Motion Part (CMP). CMP will handle all motions with the exception of Commercial, Guardianship and Matrimonial Motions. Our rules are annexed hereto.

The goal of CMP is to provide better service to our Judges, Attorneys and the public we serve. This is a "Work in Progress" and we look forward to your comments and suggestions for improvement. Please contact me by email [khopkins@courts.state.ny.us](mailto:khopkins@courts.state.ny.us) or telephone (516) 493-3401 at any time with your questions and concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn Driscoll Hopkins".

Kathryn Driscoll Hopkins, Esq.  
Chief Clerk

**SUPREME COURT OF NASSAU COUNTY  
CENTRALIZED MOTION PART RULES  
(amended 2/27/14)**

Room 152  
Phone: 516-493-3311  
Fax: 516-493-3319

**THE CENTRALIZED MOTION PART HANDLES ALL  
MOTIONS WITH THE EXCEPTION OF  
COMMERCIAL DIVISION, GUARDIANSHIP AND  
MATRIMONIAL MOTIONS**

**PROTOCOL FOR MOTIONS AND SPECIAL PROCEEDINGS  
BY NOTICE OF MOTION / PETITION**

**Concerning: Intake and processing of Motions on Notice / Special Proceedings  
/ Procedures for Receipt of Papers in the Centralized Motion Part /Submission  
Rules/ Scheduling of Oral Argument.**

**Motions made by Notice of Motion and Petitions and Notices of Petition in Special  
Proceedings are processed by the Motion Clerks and are to be made returnable at a  
Centralized Motion Part of the Supreme Court of Nassau County, at the courthouse located  
at 100 Supreme Court Drive, Mineola, New York, on any business day of the week at 9:30  
AM.**

**\*\*\*ALL ORDERS TO SHOW CAUSE, MOTIONS AND PETITIONS MUST SET FORTH  
ALL RELIEF REQUESTED ON THE RIGHT OF CAPTION (1<sup>ST</sup> PAGE) UNDER THE  
INDEX NUMBER\*\*\***

**A. INTAKE AND PROCESSING OF MOTIONS/SPECIAL PROCEEDINGS**

**In an e-filed case - All moving papers including supporting papers shall be e-filed at least eight  
business days prior to the return date. The clerk will calender the motion/petition for the return**

date selected. Working copies (hard copies) of the e-filed motion/petition including the supporting documents shall be submitted to the Centralized Motion Part (Room 152) no later than five business days prior to the return date. The working copy submission must include a statement, that it is an exact duplicate of the e-filed document(s). Proof of service by hard copy of the moving papers on the parties who have not consented to e-filing shall be submitted to the Centralized Motion Part (Room 152) no later than one business day prior to the return date. Pursuant to Uniform Rule for the Trial Courts 202.5-b (d)(4), a Confirmation Notice from the New York State Courts E-Filing Website, which is generated when a document is e-filed, shall be firmly affixed, as the back page facing out, to each separate working copy or group of such copies. Where in the narrow circumstances allowed by the e-filing rules, a motion is made in hard copy form or opposition papers are submitted in hard copy form and are not e-filed, there shall be firmly affixed to each separate document or group of documents, as the back page facing out, a Notice of Hard Copy Submission - E-Filed Case (Form EF-20 available on the e-filing website). Any filing fees required must be paid thru the e-filing website when the document is e-filed. **The fee can only be paid on-line with any major credit card.**

In hard copy cases - All moving papers including supporting papers and affidavits of service shall be submitted either in person, by mail or by express delivery to Room 186 no later than five business days prior to the return date, together with proof of payment thereof. The Court will only accept the \$45.00 fee in Attorney Check , in person.

Request for Judicial Intervention (RJI), Proof of payment of Index Number Fee, Required Papers in Commercial Division Cases, Data entry into the court's Civil Case Information System (CCIS), Sequence Numbers:

In an unassigned case, counsel must submit an RJI (UCS 840 form) and, in a hard copy case, exhibit an RJI receipt as proof that the RJI fee was paid. The RJI must also be marked to reflect the existence of any related case(s).

Attorney's who seek assignment of an action to the Commercial Division must submit a Request for Judicial Intervention (UCS 840, form) marked to reflect that the case involved is a commercial one, together with a completed Commercial Division Addendum (UCS 840C) certifying that the case meets the requirements of the division set forth in Uniformed Rule 202.70 (a), (b), (c) and (d). The Commercial Division Justice will review the papers and make a determination as to whether or not the action meets the requirements in Uniformed Rules 202.70. If the Commercial Division Addendum is not submitted, the case will be randomly assigned to a Non-Commercial Division Part.

Once the motion/petition fee is paid, if required, the motion clerk will process the RJI and, via computer, randomly assign the case. The clerk will then record the motion/petition and the return date in the court's Civil Case Management System ("CCIS") computer and give the motion/petition an identifying number (a "sequence number", such as "Seq. No. 2") which will

also be recorded in CCIS. The next motion/petition or cross motion presented to the court in the matter will be assigned the next sequence number in numerical order.

In special proceedings and with regard to motions pursuant to CPLR 3213 (motions for summary judgment in lieu of complaint), counsel should file the original petition and a summons and the original motion papers with the County Clerk or via the E-file Website to commence the case, CPLR 304. In hard copy cases a duplicate original of the petition, the original notice of petition, and an original affidavit of service in a special proceeding, and a duplicate original of the CPLR 3213 motion papers and an original affidavit of service must be submitted to Room 186. In e-filed cases counsel must submit working copies of the notice of petition, the petition and affidavits of service, and, CPLR 3213 motion(s) and affidavits of service to Room 152, with the E-filing "Confirmation Notice" firmly affixed to each application, as the back page facing out.

Review of papers as to form and content: When motion/petition papers have been submitted to the court in the manner described above for the purpose of calendaring a motion/petition, the clerk will review the papers as to form and content (e.g. affidavit/Affirmation in support, return date and that the motion/petition has been made returnable to the correct court and address on a business day at 9:30 AM). If defects in the papers have been found, the clerk will note those defects for counsel. The papers will not be "rejected" (CPLR 2102) except as permitted in e-filed cases and as allowed by Uniform Rule 202.5 (d). Defects noted by the clerk but not corrected by counsel may be brought to the attention of the assigned justice upon submission. In e-filed cases, working copies that do not bear the "Confirmation Notice" and permitted hard copies that do not bear a "Notice of Hard Copy Submission - E-filed Case", submitted to the court, will be returned for correction.

## **B. PROCEDURE FOR FEE PAYMENT FOR MOTIONS, PETITIONS ON NOTICE, AND CROSS MOTIONS**

In an e-filed case - The \$45.00 fee for Notice of Motion/Petition or Cross Motion must be paid when the documents are e-filed. The fee may be paid on-line with any major credit card.

In hard copy cases - Attorneys may hand deliver or mail their notice of motion/petition or cross motion papers together with the \$45.00 fee to the Nassau County Clerk's office in the form of a money order, personal check or attorney's check made payable to the Nassau County Clerk located at 240 Old Country Rd. Mineola, N.Y. 11501. The County Clerk will accept payment and mail a copy of the fee receipt therefor to the moving party, only, if a self addressed stamped envelope is provided with the papers for such purpose. The County Clerk will then transmit the papers, with the payment endorsement page attached to the court for processing. Attorney's may also hand deliver the papers, with the requisite fee, in attorney check only, made payable to the Nassau County Clerk at the Supreme Court of Nassau County, located at 100 Supreme Court Drive Mineola, N.Y. 11501 (Room 186), the check and papers will be forwarded to the County

Clerk and the same fee processing procedure as noted above will be followed.

### **C. RESPONSIVE PAPERS**

In all cases responsive papers, (e.g. affirmations in opposition, reply papers) shall be hand delivered or mailed to the Supreme Court located at the Supreme Court, 100 Supreme court Dr., Mineola, N.Y. 11501 (room 152). All responsive papers must be received no later than 4:45 P.M. on the motion return date, or subsequent adjourn date(s), if any. In addition, any e-filed documents, shall have the e-filing Confirmation Notice firmly affixed, as the back page facing out.

### **D. RETURN DATE SUBMISSION PROCEDURE**

Place of Return and Return Date - All motions/proceedings brought on by notice of motion or notice of petition, in both assigned and unassigned cases, shall be made returnable at a *Centralized Motion Part (CMP)* of the Supreme Court of Nassau County, at the courthouse located at 100 Supreme Court Drive Mineola, N.Y., on any business day of the week 9:30 AM.

Submission procedure - To the extent possible, motions marked submitted will be decided "on the papers", unless oral argument is requested, in which case the motion papers will be marked submitted on the return date, see the courts procedure for "Scheduling of Oral Argument/Appearances" on page 6. Motions marked no-opposition will also be decided "on the papers".

**On the return date or adjourned date, if any, attorneys are not required to be present in the Centralized Motion Part.** Indeed, attorneys are encouraged to use service or office personnel to deliver papers or working copies to the court. Counsel for the movant need not appear to "take a default" on any motion or for any other reason. Motions will be submitted, not marked off, in the absence of the movant. Opposing counsel similarly need not appear in person in order to avoid suffering a default. Delivery of papers by service or office personnel will suffice. The Supreme Court's goal is to be able to collect papers on motions in an orderly, economical and efficient fashion, but without any attorney having to make an appearance in the Centralized Motion Part (Room 152).

### **E. ADJOURNMENTS BY STIPULATION, BY AFFIDAVIT/AFFIRMATION OF CONSENT, BY E-MAIL, BY E-FILING, BY AFFIDAVIT/AFFIRMATION NOT ON CONSENT, BY MAIL**

Adjournments by Stipulation - A party seeking an adjournment must contact all other parties in an effort to obtain consent and demonstrate that it was done. Adjournments are granted in the Centralized Motion Part (Room 152) in response to written stipulations, however, No more than

three adjournments for a total of no more than 60 days are allowed except with the permission of the JHO/Referee assigned (Rule 202.8(e)(1) of the Uniform Rules for the Trial Courts), given by means of a so-ordered stipulation.

Adjournments by Affidavit/Affirmation of consent - If all parties consent to an adjournment as allowed by these rules but a written stipulation cannot be obtained in time for submission, the applicant for the adjournment on consent may submit an affidavit or affirmation reciting that such consent was obtained. The document must contain the reason for the adjournment request, how consent was obtained from each party, when it was obtained, and the name of each attorney who gave oral consent. The Affidavit/Affirmation must have been served before the date on which the request for adjournment is made.

**Adjournments by Fax** - Parties seeking an adjournment on consent in compliance with the procedures outlined here may do so by FAX. Counsel who wish to avail themselves of this procedure may fax to 516-493-3319. Any such FAX may be sent up to 4:45 PM on the return date of the motion to which it relates. In addition to the caption and index number, each submission must identify the date on which the motion is then returnable. The party filing the paper must retain the original paper for 60 days in case any issue should later be raised about the FAX copy submitted.

Adjournments by E-Filing - In e-filed cases parties seeking an adjournment on consent in compliance with the procedures outlined here may do so by e-filing the document. Counsel wishing to avail themselves of this procedure must e-file the stipulation or affidavit/affirmation in PDF format. When e-filing the document, on the "Enter Case Information" page, counsel must select the option "Documents relating to an existing motion/cross motion/petition/OSC, and link the document to the motion with the motion sequence number, to the motion the adjournment request relates to. These requests may be e-filed up to 4:45 PM on the return date of the motion to which it relates. In addition to the caption and index number, each submission must identify the date on which the motion is then returnable. The party e-filing the document must retain the original paper and the e-filing "Confirmation Notice" for 60 days in case any issue should later be raised about the PDF copy submitted.

Applications for Adjournment Not on Consent - If consent was not obtained from all parties prior to the return date, any party making an application for an adjournment must appear in person before the JHO/Referee assigned on said return date. Appearance will be at **9:30 am** in Room 152 on the first floor. Furthermore, an applicant must, by phone, fax, e-mail, or mail transmitted with adequate lead time, advise all parties who have not consented that an application will be made. Counsel should present proof of notification to the court.

All adjournment requests, whether on consent or not, may be mailed to the: Supreme Court 100 Supreme Court Drive Mineola, N.Y. 11501, Centralized Motion Part (Room 152) or Faxed to 516-493-3319.

Note: Due to the volume of matters on the Centralized Motion Part calendar each day, it will not be possible for Court staff to notify counsel whether their adjournment request was granted. Consequently, because of this issue, counsel's request for adjournment on consent will be granted if the request complies with the rules procedures of the Centralized Motion Part. If for some reason a particular adjournment request on consent, by stipulation or affidavit/affirmation, that complies with the rules and procedures of the Centralized Motion Part cannot be granted, counsel will be notified. **Please be aware the motion will appear on the original return date motion calendar, and will be adjourned to the new date at that time. Please do not inquire as to why the adjourn date is not reflected on E-Courts unless a week after the original date has passed.**

#### **F. 72 HOUR RE-SUBMISSION RULE**

If an Affidavit in Opposition or a Reply is received by the Court within 72 hours after submission of the motion, that motion will be marked re-submitted with the new date and a public comment will be made in the Court's data entry system in order to give the Court the full 60 days to render its decision. This will be done by stip or if not on consent, by appearing in person at 9:30 am before the Centralized Motion Part JHO (Referee) to request the re-submission and the purpose of. Furthermore, an applicant must, by phone, fax, e-mail, or mail transmitted with adequate lead time, advise all parties who have not consented that an application will be made. Counsel should present proof of notification to the court. There is no need for an order to change the motion marking if received within 72 hours after submission.

Any changes in a submission marking after that time period cannot be done without written order of the CMP Judge.

\*Please note, absent a court order to the contrary, CPLR 2214(b) will be strictly observed.

#### **G. SCHEDULING OF ORAL ARGUMENT/APPEARANCES**

Counsel who wish oral argument must so request conspicuously on the front of their papers, see Uniform Rule 202.8 (d). Oral argument will not take place on the original return date, instead, the motion will be marked submitted and forwarded to the assigned IAS Supreme Court Justice. Therefore, Counsel need not appear on the original return date. If oral argument is granted by the court, Counsel will be notified of the date for oral argument. If the Court denies the request for oral argument, the motion will be decided on the papers. The Court may also direct oral argument on motions on which no oral argument was requested. In these instances, Counsel will also be notified of the oral argument date by the court. Oral argument does not extend the 60 day decision deadline unless otherwise ordered by the Supreme Court Justice presiding at the Centralized Motion Part in writing.

## METHOD FOR SUBMITTING AN ORDER TO SHOW CAUSE

### Orders to Show Cause without a stay, TRO, or other temporary relief:

If you are submitting an Order to Show Cause without a stay or Temporary Restraining Order it can be dropped off in room 186 of the Supreme Court once the \$45.00 motion fee and any other required fees (RJI & index number fee) have been paid to the County Clerk. If the case has already been assigned to a Supreme Court Justice, then the \$45.00 motion fee may be paid by a check from the law office or from the insurance company, provided that the check is accompanied by a copy of the first page of the Order to Show Cause. The check should have the telephone number written on the face of the check.

The Order to Show Cause will usually be signed in two business days. Put your fax number on the legal back. A copy of the signed Order to Show Cause will be faxed to that number once it is signed.

### Orders to Show Cause with a stay, TRO, or other temporary relief:

If there is a stay or temporary restraining order sought in the Order to Show Cause, then the Attorney will need to comply with UCR 202.7. If notice of the application was provided to the party against whom the temporary restraining order is sought in advance, then an Attorney with knowledge of the case should appear on the time and date directed in the notice. Oral argument regarding the stay or temporary restraining order may be heard at that time depending on the availability of the assigned Justice. For this reason it is best to check with the chambers of the assigned Justice in advance for instructions regarding the method of notice required by that Justice and for the time and date to appear.

### Orders to Show Cause in E-File cases:

For actions that have been electronically filed, the Order to Show Cause must be uploaded into the NYSCEF system and the required payments made through NYSCEF. Checks can no longer be accepted for E-filed cases. E-filing rules require that a **paper working hard copy** of the proposed Order to Show Cause and the supporting papers be submitted before the proposed Order to Show Cause can be submitted to the assigned justice for signature. Please submit a hard copy of the proposed Order to Show Cause with all supporting papers with the words "**WORKING COPY**" prominently printed on the proposed Order to Show Cause cover page with the **E-filing Confirmation Notice** firmly affixed, as the back page facing out, (by either mail or personal delivery) to Room 186 of the Supreme Court 100 Supreme Court Drive Mineola, New York 11501. Please send it to the attention of Wanda Bilka.



If a stay or TRO is requested in the Order to Show Cause, the hard copy of the papers can be submitted at the time that the application is noticed to be heard regarding the stay, or it can be submitted in advance. The attorney will then walk the hard copy of the papers to the assigned justice, just as in the procedure for a paper case when a TRO is requested.

**Orders to Show Cause when a stay of trial is requested:**

When there is a request to stay a trial, and the stay is granted, the moving attorney should provide a copy of the signed Order to Show Cause to the clerk in the Calendar Control Part.

**Court Procedures for processing Orders to Show Cause:**

Proposed Orders to Show Cause are submitted to the Clerk in room 186. Orders to Show Cause are handled in the order in which they are received. If there is no stay or Temporary Restraining Order (TRO) requested, they are dropped off in Room 186 and are usually signed and faxed to the movant within 2-3 court days. The papers are entered in the computer data base and if there is no Supreme Court Justice assigned, one will be assigned that day. The proposed Order to Show Cause is then reviewed by the Order to Show Cause Clerk. Once it has been approved by the Clerk, the papers are placed in the mailbox of the assigned justice. Once signed by the Justice, they should be returned to room 186. The movant should provide a fax number on the legal back. The movant will be notified if an Order to Show Cause is defective or has been refused by Chambers.

If there are circumstances that require the signing of the Order in less than 2 court days, then an emergency affirmation must be submitted outlining the nature of the emergency and an Attorney with personal knowledge of the facts must wait for the order to be signed. UCR 202.7(f) will apply to emergency Orders to Show Cause.

If there is a stay or TRO requested in the Order to Show Cause, the moving attorney must comply with UCR 202.7 (f). In most cases, that means that the movant would have to have given notice to the party affected by the stay of the time, date, and place that the application for the stay will be made. The notice should be sufficient to allow the party affected by the stay an opportunity to be heard regarding the issuance of the stay. The Order to Show Cause will be processed immediately and the moving Attorney will take his/her papers to the assigned Justice, if that Justice is available. If the assigned Justice is not available, the Attorney will be sent to the Special Term Justice. If the adversary appears, both attorneys will proceed to the Courtroom or Chambers of the designated Justice and will/may be heard regarding the stay. A copy of the signed Order to Show Cause will be provided to the moving attorney. The copy may be made by the Part Clerk, or the Attorneys can be sent back to room 186 with the papers and they will get a copy there. The signed Order to Show Cause must always be returned to room 186 so that the dates of signing and return date can be recorded in the computer data base.

Once the information is uploaded in the computer data base, the papers are marked as closed out and are returned to the Centralized Motion Part.

If there is a foreclosure sale scheduled, a pink slip will be attached to the front of the Order to Show Cause. Please return those Orders to Show Cause to Room 186 promptly so that the clerk can provide a copy of the signed Order to Show Cause to Chris Zanchelli in CCP as it may contain a stay of the foreclosure sale.

If the case is E-Filed, there will be a cover slip identifying it as such. Once signed, a copy should be provided to the Efiling office by the Clerk in room 186. You can email the copy to Charlie Bahamonde at [cbahamon@courts.state.ny.us](mailto:cbahamon@courts.state.ny.us).