

**HONORABLE JUSTICE MARY V. ROSADO
SUPREME COURT, CIVIL TERM**

111 Centre Street, New York, New York 10013
COURTROOM 731 PART 26

Principal Law Clerk: Kelly W. Perez, Esq., kperez@nycourts.gov
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RULES SPECIFIC TO GUARDIANSHIP CASES

Litigation is not to take place via emails. All requests for relief should be made in the appropriate form of either Notice of Motion or by Order to Show Cause.

Any party seeking an adjournment or seeking an earlier court date must submit an affirmation to the court explaining the reasons for the request and must send copies to all interested parties and the Part Clerk. Adjournments are rarely granted, especially on a seq 001 motion/application.

No appearances by the AIP are waived. All AIPs are to be in court. The Court will accommodate AIPs who cannot come to Court by going to their home, nursing home or hospital. Petitioner should advise the clerk at the time of filing the Order to Show Cause or include the request in the Order to Show Cause.

When submitting a proposed order, counsel shall provide a courtesy copy in Microsoft Word format via email to the Part Clerk and to Kelly Perez.

COURT EVALUATOR

The court evaluator shall be responsible for the following:

- Interview the AIP and interested parties.
- Promptly notify the Court if AIP wants or requires an attorney.
- Promptly notify the Court if the hearing should be conducted at the nursing facility or home.
- Promptly notify the court if a foreign language interpreter is required for the hearing.
- Attend all Court proceedings and conferences.

- After the Court gives its approval, disseminate report to parties prior to the hearing.

If the court evaluator believes medical, psychiatric or psychological records are likely to aid him or her in compiling the report, but the court evaluator believes circulation of said records would violate the AIP's privacy, then the court evaluator may apply to the Court for disclosure of said records for *in camera* review.

The court evaluator shall file his or her report with the Guardianship Office at 60 Centre Street, room 158 and email copies to the Part Clerk and Kelly Perez **at least two days in advance** of the hearing or scheduled conference.

The court evaluator report should not be a regurgitation of the petition and should give the Court a comprehensive view of the case.

The court evaluator shall redact sensitive personal and financial information, such as Social Security numbers and bank account numbers, from his or her report.

If the court evaluator finds that the property of the AIP is in danger, the court evaluator shall immediately apply to the Court for appropriate relief, such as restraining orders and/or subpoenas. The application shall be accompanied by an affidavit and/or affirmation setting forth all the relevant information and documents.

COUNSEL FOR THE AIP

Meet with the AIP before the hearing date and as needed, to explain to the AIP the purpose of the hearing and ascertain what the AIP wants.

Attend the hearing and any adjourned dates.

The Court expects AIP's counsel to represent the AIP at the hearing vigorously, making inquiries and objections as needed.

COURT EXAMINER

Court examiners shall examine reports within 30 days of their filing.

If the guardian fails to file a report or the court examiner finds the report to be unsatisfactory or incomplete, the court examiner shall demand by certified mail a revised report or proof of any item. Upon a failure to comply, the court examiner shall schedule by letter application a conference with the Court. After the conference, the court examiner may make a motion to require compliance with the demand, to reduce the commission of the guardian, or to remove the guardian.

BE PROMPT AND PREPARED

It is fully expected that motions, hearings, and trials begin as scheduled. Cell phone numbers of respective counsel should be provided to opposing counsels and the court when there is a hearing or trial expected to proceed for more than one day. In the event of an unavoidable delay, it is expected that counsel contact opposing counsel and the court as soon as possible. Failure to appear on time, without good cause, may result in the consideration of sanctions. Bench trials are usually "back to back" and jury trials involve the coordination of numerous witnesses and any unnecessary delays are inherently unfair to the jurors, litigants, counsel, other litigants awaiting trial, and the Court.

COURT DECORUM

The pressures of the courtroom are well-known and will be considered by the Court in the context of robust oral argument. However, all attorneys are expected to treat each other, the parties, court personnel and the court with civility and respect. Anything less will not be tolerated. Good advocacy is not incongruent with the highest aspirations of the profession and good manners. Attorneys and clients are expected to dress appropriately at all times.

EX PARTE COMMUNICATIONS

There are to be no *ex-parte* communications with the court. If counsel needs to speak with chambers about scheduling or other issues, he or she should first speak with his or her adversary and work out a proposal to present to the Part Clerk. Either party may contact the Part Clerk if the scheduling or other type of administrative matter has been worked out between counsel.

HEARINGS AND TRIALS

All parties must be present in court by their scheduled time.

All trials are scheduled for a date and time certain. All counsel must be aware of the schedules of their respective witnesses. Counsel shall alert the Court of: 1) any scheduling conflicts, 2) the need for an interpreter; 3) any other special needs, e.g., easels, blackboards, shadow boxes, or television, subpoenaed material, etc., 4) necessary Court-Ordered subpoenas; 5) any evidentiary issues that ought to be addressed before jury selection, and 6) a list of the witnesses they intend to call and the order, including expert witnesses.

ADJOURNMENTS

Once a trial or hearing is scheduled, adjournments only will be granted upon unforeseen extraordinary circumstances. Although the court will work with all parties to schedule a mutually convenient hearing date, it is counsel's responsibility to come to court with full knowledge of when they, their clients, and their witnesses will be available.

OBJECTIONS

No Speaking objections. Please stand if you raise an objection during the course of the hearing or trial. Please use one word to describe the grounds for the objections (i.e. "objection- relevance", "objection- hearsay", "objection- no foundation"). It alerts the witness to not answer the question and to wait for my ruling.

The Court reserves the right to vary these rules in the interest of justice or for good cause shown.