

**Part Rules & Calendar Procedure**

**Tax Certiorari / Condemnation Part ( Ninth Judicial District )**

(Revised 11/5/08)

**Hon. John R. La Cava  
Justice of the Supreme Court**

**Westchester County Courthouse  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, N.Y. 10601**

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**J. Raymond Mechmann, Esq.  
Principal Law Clerk to Judge**

**Eva Nilsson-Smith  
Secretary to Judge**

**Chambers' Telephone: (914) 824-5417**

**Chambers' Fax: (212) 401-9155**

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**Efraim Nieves  
Clerk of the Part**

**Clerk's Office: Room 1612**

**Clerk's Telephone: (914) 824-5353**

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**Court website:  
[www.courts.state.ny.us](http://www.courts.state.ny.us)**

## **APPEARANCES**

All appearances are to be at the Richard A. Daronco Westchester County Courthouse, 111 Dr. Martin Luther King, Jr. Blvd., White Plains, New York. Trials are held in Courtroom **1603**; calendar calls and conferences are held in Room **1619**.

### **Tax Certiorari (Article 7) Matters Generally**

Article 7 (Tax Cert) petitions are to be filed with the County Clerk of the County where the index number is purchased. There are to be no appearances before this Court on the return date of the petition.

Article 7 petitions do not appear on a calendar for appearance until and unless a Request for Judicial Intervention (RJI) and a Note of Issue (NOI) are filed.

### **Condemnation (Eminent Domain) Matters Generally**

To place a Condemnation matter on the calendar only an RJI is required. Within 30 days of the filing of a claim in a condemnation matter the claimant is directed to send a copy of the notice of claim to this part. The court will then hold a scheduling conference with counsel to determine dates for discovery, including the date for the exchange of trial appraisals. Upon the completion of discovery and the filing of a note of issue a trial date will be set.

### **Calendar Calls**

Upon the filing of an RJI and NOI in a Tax Certiorari matter, or an RJI in a Condemnation matter, said matter will be placed on a calendar call for an initial appearance.

Calendar calls for new matters filed in Westchester County are held the 1<sup>st</sup> Thursday of each month. Calendar call listings may be viewed on the court website.

Calendar calls for new matters filed in Dutchess, Orange, Putnam and Rockland

Counties are held twice a year— usually on the 2<sup>nd</sup> Thursday in April and on the 2<sup>nd</sup> Thursday in October. Attorneys are notified of calendar calls in writing by the Calendar Clerk of the particular County.

Appearances at calendar calls are not required. But, as a courtesy, you should inform your adversary if you do not intend to appear. Matters appearing on calendar calls for the first time are adjourned 60 to 90 days for a preliminary conference (**PLC**). However, if a matter has other companion cases already on track it will be adjourned to the same date as the other matters.

Calendar calls are held in Conference Room **1619** (behind Courtroom 1603) and commence at **2:00** p.m.

### **Preliminary Conference (PLC)**

All conferences from the calendar call forward are called preliminary conferences (PLCs). Calendars may be viewed on the court website.

PLCs are held in Conference Room **1619** at **2:00** p.m.

Do not call, write or fax the Court regarding an adjournment of a PLC. If you are unable to attend a PLC you may advise your adversary of the adjourned date you prefer and the Clerk will, to the extent possible, accommodate your request at the time the calendar is called. If neither side appears, the PLC will be adjourned for 30 to 45 days. The new PLC date may be obtained by calling the office of the Calendar Clerk of the particular County where the matter is filed (see list of telephone numbers below) or on the court website. Allow 7 to 10 days for adjourned dates to appear on the court website.

### **Trial Scheduling Conference (SC)**

A party may request a trial scheduling conference (**SC**) at any point after the first PLC. That request must be in writing and on notice to all other parties who have appeared and must be accompanied by a copy of the RJI, NOI and petition for each tax year in question. A separate request should be submitted for each individual

property. The Clerk will notify the requesting party of the date and time of the SC. The requesting party will in turn notify all other parties of the SC date in writing with a copy to the Court.

The SC will yield dates for the exchange of trial appraisals (**ETA**), pre-trial conference (**PTC**), submission of pre-trial memorandum (**PTM**) and for trial. These dates will be *so ordered* by the court and a copy of the scheduling order will be mailed to all parties who have appeared.

SCs and PTCs are held in Conference Room **1619** and commence at **2:30** p.m. or other designated time.

### **Trials**

Trials are held in Courtroom **1603** and commence promptly at **10:30** a.m.

Photocopies of trial exhibits and other documents are to be made outside the courthouse. All exhibits must be pre-marked prior to the commencement of trial. A list of all exhibits to be offered by each party shall be provided to the Court at the commencement of the trial. Should the exhibit list be amended during the trial, a copy of the updated or amended list shall be provided to the Court.

*All witnesses, including but not limited to assessors, appraisers, experts, and fact witnesses, who maintain and/or possess a file and/or documents relevant to their testimony and/or the subject matter of the trial, hearing, or other matter before the Court, shall bring their entire and complete file and/or any and all relevant documents with them to Court on the date of their testimony and on any dates on which their testimony continues. Any party whose witness fails to appear with his or her complete file and/or any and all relevant documents as detailed above, will bear any and all costs associated with the adjournment of the trial, hearing, or other proceeding as may be necessary to secure the witness' file and/or relevant documents .*

**Trial appraisals, pre and post trial memoranda** are to be submitted as follows: An **original and two (2) copies** are to be delivered to this Part on or before the ETA or PTM date, as the case may be. Each pleading is to be labeled on its face so as to distinguish which is the original and the copy. Counsel are directed to mutually

exchange trial appraisals, pre and post trial memoranda, and expert reports if any, without the assistance of the Court.

### **Adjournment of So Ordered Dates**

All court ordered discovery and trial dates are to be strictly complied with and no adjournments will be granted, except with specific permission of the Court, for good cause shown. Failure to comply may result in the imposition of sanctions, including the striking of pleadings and/or preclusion of evidence. All adjournments must be requested from **Chambers** at **(914) 824-5417**.

## **MOTIONS**

### **Submission of Papers**

**All pleadings**, i.e. petitions, RJIs, NOIs, motions, stipulations, settlement orders and judgments must be submitted to the Calendar Clerk of the County where the index number is purchased and the action is filed. Said Calendar Clerk will process the papers and send them to this part for determination. However, correspondence regarding a matter already calendared in this part should be sent directly to the Chambers of the Hon. John R. La Cava at the Westchester County Courthouse.

Should you need to contact the Calendar Clerk's office of a particular County, the telephone numbers are as follows:

|                     |                       |
|---------------------|-----------------------|
| <b>Westchester:</b> | <b>(914) 824-5300</b> |
| <b>Rockland:</b>    | <b>(845) 638-5387</b> |
| <b>Orange:</b>      | <b>(845) 291-3111</b> |
| <b>Putnam:</b>      | <b>(845) 225-3641</b> |
| <b>Dutchess:</b>    | <b>(845) 486-2260</b> |

**Motion papers** are to be submitted in the following form: **an original and one (1) courtesy copy**. Each set of papers should be labeled on its face as to distinguish which is the original and which is the copy.

Motions are to be on submission of papers only; no appearances required. Should the

Court deem oral argument necessary, the parties will be notified of the date and time by the Clerk.

Orders to show cause will be conformed by fax.

Items are not to be faxed to the Court without prior approval.

**Motion Return Dates**

Motions are to be made returnable on the following days for each County of filing:

|                   |                    |
|-------------------|--------------------|
| <b>Monday:</b>    | <b>Rockland</b>    |
| <b>Tuesday:</b>   | <b>Putnam</b>      |
| <b>Wednesday:</b> | <b>Westchester</b> |
| <b>Thursday:</b>  | <b>Orange</b>      |
| <b>Friday:</b>    | <b>Dutchess</b>    |

**Adjournment of Motion Return Dates**

Requests for motion adjournment are to be directed to the **Clerk** at **(914) 824-5354**.

Adjournments on consent are generally granted. Confirmation must be by letter addressed to the Court with a copy to opposing counsel.

An adjournment without consent may be granted but it must be requested in person on the motion return date. Adequate advance notice should be given to the Court and opposing counsel.

**Settlement Orders, Stipulations & Judgements**

Settlement orders, stipulations and/or judgments **must** be accompanied by a copy of the RJI (and NOI, if any) for each index number listed.

A conformed copy of an order or judgment will be sent back to the submitting party

only when it is accompanied by a stamped, self-addressed envelope.

A conformed copy of an order or judgment filed with the County Clerk of Westchester County will bear a “Filed & Entered” stamp noting the date of filing and entry of the original. For other counties you will have to contact the County Clerk of the particular County for that information.

**Special note re. Tax Cert Settlement/Judgment Orders:** The county attorneys for the counties of Westchester, Dutchess and Orange reserve the right to review tax cert judgment orders before they are signed by the Court. The Clerk of the part will send the judgment order to the Westchester County Attorney for review. As for Dutchess and Orange counties, counsel are directed to file the original and a copy of the judgment order with the Calendar Clerk and to send an additional copy to the following:

**Dutchess County:** Dutchess County Attorney’s Office  
22 Market Street  
Poughkeepsie, NY 12601  
Attn.: **Gail Epstein, Esq.**

**Orange County:** Orange County Attorney’s Office  
255 Main Street  
Goshen, NY 10924  
Attn.: **Matthew Nothnagle, Esq.**

General information and court decisions of the Ninth Judicial District Tax Certiorari/Condemnation Part may be accessed through [www.nycourts.gov/courts/9jd/taxcert.shtml](http://www.nycourts.gov/courts/9jd/taxcert.shtml).

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