

2.05 Judicial Notice of Map Information (CPLR 4532-b)

[1] An image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool, is admissible in evidence if such image, map, location, distance, calculation, or other information indicates the date such material was created and subject to a challenge that the image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool does not fairly and accurately portray that which it is being offered to prove.

[2] A party intending to offer such image or information in evidence at a trial or hearing shall, at least thirty days before the trial or hearing, give notice of such intent, providing a copy or specifying the internet address at which such image or information may be inspected. No later than ten days before the trial or hearing, or later for good cause shown, a party upon whom such notice is served may object to the request to admit into evidence such image or information, stating the grounds for the objection.

[3] Unless objection is made pursuant to this [rule], the court shall take judicial notice and admit into evidence such image, map, location, distance, calculation or other information.

Note

This rule restates CPLR 4532-b, except for the addition of subdivision numbers and the substitution of “rule” for “subdivision” in subdivision (3). Also, because the statute was enacted without a section title, a title has been added.

CPLR 4532-b was enacted initially as subdivision (c) of CPLR 4511 (Judicial Notice of Law). (L 2018, ch 516 [eff Dec. 28, 2018]; Guide to NY Evid rule 2.03.) The following year, however, the legislature deleted subdivision (c) and

reenacted it with modifications in CPLR 4532-b. (L 2019, ch 223 [signed on Aug. 30, 2019, although effective on the same day (Dec. 28, 2018) as its predecessor].)

This rule, as specified in CPLR 4532-b, authorizes a trial court to take “judicial notice” of an “image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool” that bears the date it was created, unless it “does not fairly and accurately portray that which it is being offered to prove.”

As set forth in subdivision (2) of this rule, CPLR 4532-b provides that a party intending to introduce an item specified in subdivision (1) “shall” notify the opposing party of that intent, and the opposing party “may” in turn register an objection. In the absence of actual prejudice, the time periods a party “shall” adhere to may be ruled “directory, not mandatory,” and thereby subject to modification by the trial court. (*Cf. Matter of Hendricks v Annucci*, 179 AD3d 1232, 1233 [3d Dept 2020]; *People v Coleman*, 58 AD2d 968 [4th Dept 1977]; *Matter of Moskal v State of N.Y., Executive Dept., Div. of Human Rights*, 36 AD2d 46, 49 [4th Dept 1971].) Absent an objection, the trial court “shall” take “judicial notice” of the proffered item.