

**CATTARAUGUS COUNTY SUPREME COURT
LOCAL RULES**

**Chambers- Little Valley
and Courtrooms
303 Court Street
Little Valley , New York 14755
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**Buffalo Office
Associate Court Attorney
50 Delaware Ave., 9th Floor
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Acting Supreme Court Justices:
Honorable Ronald D. Ploetz, ASCJ
Honorable Terrence M. Parker, ASCJ

Confidential Law Clerks:
Jennifer Ann Widger, Esq.
Dawn Wildrick-Cole, Esq.

Chief Court Clerk - Cattaraugus County Supreme Court Kara Brunner:
716-379-6639/kbrunner@nycourts.gov

Cattaraugus County Supreme & County Court Associate Court Attorney:
Paula M. Eade Newcomb, Esq.: 716-845-3677/ pnewcomb@nycourts.gov

ALL communication regarding Cattaraugus County Supreme Court matters should be directed to the Cattaraugus County Chief Clerk, Cattaraugus Court Chambers, or Associate Court Attorney.

CONFERENCES

Conferences will be scheduled virtually through Microsoft Teams or in person. In person conferences are generally held in Little Valley on Tuesday, Wednesday and Thursday. Cases involving all Buffalo Attorneys may have conferences in Buffalo with the Associate Court Attorney on Monday and Friday. A preliminary conference will be scheduled upon court receipt of an RJI. Pre-trial conferences are scheduled upon court's receipt of calendar Note of Issue. All conferences are conducted before IAS Judge, Court Attorney, or Law Clerk.

Pursuant to 22 NYCRR Part 202, counsel must be on time and must be familiar with the case and fully prepared and authorized to discuss and resolve issues scheduled to be the subject of the appearance. Failure to comply may be treated as a default. **Prior** to each court conference, parties shall consult about (1) resolution of the case, in whole or part; (2) discovery; (3) alternative dispute resolution and (4) any voluntary and informal exchange of information that the parties agree would help to aid in an early settlement. Counsel are to make a good faith effort to reach agreement on these matters in advance of the conference.

Adjournments are granted upon agreement of all parties after obtaining the consent of Chambers in advance of the conference. Counsel should provide chambers via email (pnewcomb@nycourts.gov) with three (3) dates/times all counsel are available. Pursuant to 22 NYCRR 202.10 (b) adjournments of a conference will not change dates in any court order, unless directed by the Court.

Out of area counsel may appear by phone at preliminary conferences upon prior arrangement with chambers.

Trial counsel's personal appearance is **required** at pre-trial conferences, and counsel should have authority regarding settlement. Parties and insurance carriers are required to be available in person or readily available by telephone or Microsoft TEAMS for settlement conferences.

MOTIONS

Cattaraugus County: Contact Associate Court Attorney or Court Clerk for specific date/time. Motions will be provided with a specific, staggered time. Counsel should be prepared and arrive on time.

Motions cannot be adjourned generally, and may be adjourned by contacting the Associate Court Attorney or Court Clerk. Consent of opposing counsel is necessary for all adjournments unless the court directs otherwise.

Judge Parker: Motions will be heard on the 1st and 3rd Thursdays of each month in Little Valley. General Civil motions will be heard starting at 9:30 a.m.; Foreclosures and Civil Summary Judgment Motions starting at 10:00 a.m.; Matrimonial, Article 81; and Infant Settlements starting at 2:00 p.m.

Judge Ploetz: Motions will be heard on the 2nd and 4th Thursdays of each month in Little Valley. General Civil motions will be heard starting at 2:00 p.m.; Civil Summary Judgment Motions starting at 2:30 p.m.; Matrimonial, Article 81, and Infant Settlements starting at 3:00 p.m.

Oral Argument: Requests for oral argument shall be set forth in the Notice of Motion. The Court will determine on a case by case basis whether to grant oral argument. The Court, if practicable, will give at least 14 days notice of the date for oral argument pursuant to 22 NYCRR 202.8-f.

E-Filed Cases: No courtesy papers required for any party filing motions through the E-filing system.

Non-E-Filed Cases: All moving papers must be filed with a working copy for the Judge no later than ten (10) days in advance of the return date.

Papers for All Motions:

All papers must be submitted in compliance with CPLR Rules and 22 NYCRR 202.5 and 202.8. Unless permission has been granted by the Court **in advance of submission**, papers submitted that do not comply with the rules and word limits will not be considered by the Court. **No** sur-reply papers, including correspondence to the court, will be permitted without express advance permission of the Court.

All papers, including Reply papers, must be received at least two (2) business days before the return date of the motion. Late submissions may result in adjournment at the Court's discretion or refusal by the Court to consider the untimely submission.

TRO's will be considered on a case-by-case basis, on notice to opposing counsel. Pursuant to 22 NYCRR 202.8-e, unless a moving party can demonstrate significant prejudice by reason of giving notice, or that notice could not be given despite a good faith effort to provide notice, a temporary restraining order will not be issued ex parte.

Summary Judgment Motions: limited to 3 cases on each Special Term date.

The moving party must comply with 22 NYCRR 202.8-g in submitting statements of uncontested facts, or the motion will be denied. Opposing party is required to respond to the statement as set forth in 22 NYCRR 202.8-g or the uncontested facts will be deemed admitted.

Disclosure Motions: A motion relating to discovery may **not** be made without first conferring with the Court. Counsel must submit a written request to the Court for a pre-motion conference explaining the nature of the dispute and the relief sought, on notice to all counsel, and confirming that a good faith effort has been made to resolve the dispute pursuant to 22 NYCRR 202.20-f. A conference with the Court or the law clerk will then be scheduled in an effort to resolve the dispute, before such a motion may be made.

ORDERS

Unless otherwise directed by the court, orders are to be submitted by the prevailing party after approval by all parties within 30 days of the decision. A copy of the decision portion of the motion transcript or the written decision, which ever is applicable, is to be attached to any order submitted. Orders submitted are to include an indication that the order has been sent to all opposing counsel prior to submission to the court. Orders must be e-filed through NYSCEF. **Copies of all orders submitted through NYSCEF should also be e-mailed to the associate court attorney at pnewcomb@nycourts.gov.**

Pursuant to 22 NYCRR 202.8-a, when appropriate, proposed orders should be submitted with motions (i.e. motions to be relieved, pro hac vice admissions, etc). No proposed order should be submitted with dispositive motions.

ORDERS TO SHOW CAUSE

Prior to filing an Order to Show Cause, counsel should contact Cattaraugus County Chambers, Cattaraugus County Court Clerk or Associate Court Attorney.

Pursuant to 22 NYCRR 202.8-d, Orders to Show Cause will only be granted when there is a genuine urgency, a stay is required or a statute mandates so proceeding. Absent advance permission of the Court, reply papers shall NOT be submitted on Orders to Show Cause.

In cases that are not filed through NYSCEF, an original and 3 copies of any Order to Show Cause must be presented to the Cattaraugus County Clerk. The Clerk will keep one copy when payment is made for the OTSC, and the original and 2 copies will be provided to the Court. Once approved, the Court will sign the Original and conform 1 copy to be returned to the movant with the original. Movant shall file original. The remaining copy shall be kept by the Court as its courtesy copy.

TRIALS

A trial scheduling order will be issued in each case with specific deadlines. Adjournments of a trial are only permitted with permission of Trial Judge.

Trial Schedules

Trials with Judge Parker and Judge Ploetz will generally be down on Mondays for criminal term and some Thursdays for Special Term. The court operates on a 9:30 a.m. to 12:30 p.m. and 2:00 p.m. to 4:30 p.m. schedule. Counsel may contact chambers with any specific requests to accommodate expert witnesses.

Pursuant to 22 NYCRR 202.26, a settlement conference will be scheduled. Counsel shall confer in a good faith effort prior to the conference to identify matters not in contention, resolve disputed questions without need for court intervention and discuss settlement of the case. Counsel shall be prepared to discuss all matters as to which there is a disagreement between the parties and settlement of the matter. The Court may request a statement of undisputed facts to be submitted prior to trial.

Trial Exhibits

Pursuant to 22 NYCRR 202.34, counsel should consult prior to trial and shall in good faith attempt to agree upon exhibits that will be offered into evidence without objection. The parties shall then mark the exhibits and provide them to the Court at least 1 week prior to jury selection or the bench trial. All exhibits not consented to shall be marked for identification, with copies provided to the Court at least 1 week prior to jury selection or the bench trial. Exhibits not previously demanded which are to be used solely for credibility or rebuttal need not be pre-marked.

Trial Motions

Any motions regarding the adequacy of expert disclosure are to be made within fourteen (14) days of receipt of such disclosure.

Motions *in limine* are heard at the special term immediately preceding jury selection or another date as set by the Court.

Submissions to Court

Pleadings, expert disclosure, expert reports, and list of witnesses shall be submitted to the Court two (2) weeks prior to jury selection/bench trial.

Jury Charges/Verdict Sheets

Requests to charge and proposed verdict sheets are to be submitted at least one (1) week prior to jury selection. Charge conference by informal discussion with results placed on the record upon request.

MATRIMONIAL ACTIONS

Preliminary conferences will be scheduled upon assignments. A signed retainer agreement, date-stamped copy of the summons/complaint and any answer and completed 236B Affidavits must be e-filed or in paper cases, provided to the Court **at least 10 business days** prior to the preliminary conference. Parties are required to appear at the initial conference with the court. Counsel must complete a proposed Preliminary Conference Order and Information Sheet (Domestic Violence ADR Form) and submit it to pnewcomb@nycourts.gov at least **two** business days before the initial appearance (do not file the proposal in NYSCEF).

Before seeking an adjournment of a conference, counsel should contact opposing counsel and provide the Court with at least three (3) dates and times all parties and the Attorney for the Child are available. An adjournment conference form must be completed and submitted by e-mail to the court attorney at pnewcomb@nycourts.gov.

Counsel should meet with clients prior to court conferences.

After three preliminary conferences, matters not resolved will be scheduled for trial. Parties may agree to have trials involving economic issues only heard by a law clerk.

On trial dates, counsel should be ready to proceed promptly at 9:30 A.M.. See above civil rules regarding submission of exhibits prior to trial. In trials conducted virtually, all counsel and witnesses must appear by video and audio, telephone call-in is not permitted.

Findings of Fact and Judgment of Divorce on settled matters must be submitted within 60 days of the settlement or the parties and counsel will be required to appear for a court conference.

Procedure for submitting QDROs are subject to procedures set forth in Administrative Judge Feroletto's memo dated August 14, 2019. All QDROs and post-judgment orders should be filed in NYSCEF with an email copy to pnewcomb@nycourts.gov.