



**SUPREME COURT OF THE STATE OF NEW YORK
WESTCHESTER COUNTY SUPREME COURT
TAX CERTIORARI and CONDEMNATION PART
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, New York 10601**

**Presiding: HON. DIANE M. CLERKIN, J.S.C.
COURTROOM 1802**

PART RULES

Effective February 10, 2026

I. Contact Information

Court Attorney-Referee: Renée S. Motola, Esq.
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II. General Rules

Counsel are expected to be familiar with the Uniform Civil Rules for the Supreme and the County Court, 22 NYCRR § 202.1, et seq., including 22 NYCRR § 202.59 (Tax Assessment Review Proceedings in Counties Outside the City of New York; Special Rules) and 22 NYCRR § 202.61 (Exchange of Appraisal Reports in Eminent Domain Proceedings). Said rules control to the extent the same have not been superseded and/or supplemented by these Part Rules.

The Tax Certiorari and Condemnation Part is assigned all tax certiorari and condemnation proceedings commenced in Westchester County Supreme Court and all condemnation proceedings commenced in Rockland County Supreme Court.

III. Communications with the Court

Communications to the Court regarding tax certiorari and condemnation proceedings shall be addressed to the email addresses for the Part's staff set forth above. No inquiries shall be directed to the Court's IAS chambers.

A. Written Correspondence

All correspondence sent to the Court must bear the full titles and index numbers of the proceedings and indicate that a copy was sent to all other counsel of record or self-represented litigant(s) simultaneously with transmittal to the Court. No *ex parte* communications concerning substantive issues will be entertained. All correspondence shall be concise and state the relief sought or action requested to be taken by the Court.

The Court shall not be copied on correspondence between counsel and/or self-represented parties.

B. Telephone Calls

Telephone calls to Chambers are permitted only in situations requiring immediate attention that cannot otherwise be obtained by correspondence or by contacting the Part's staff. Counsel may not contact the Court without all opposing counsel on the telephone, except to schedule a conference call. The requesting party shall be responsible for setting up the conference call and providing the call-in information to the Court and all other parties.

C. Fax transmissions or Email

Unless specifically approved by the Court in advance in a particular case, the Court does not accept legal papers of any kind by fax transmission or email (*see* 22 NYCRR § 202.5-a).

IV. E-Filing Rules and Protocol

Counsel and self-represented litigants shall familiarize themselves with the statewide E-Filing Rules (see 22 NYCRR §§ 202.5-b and 202.5bb, available at <https://iappscontent.courts.state.ny.us/NYSCEF/live/legislation.htm> and the Westchester County E-Filing Protocol (<https://www.nycourts.gov/LegacyPDFS/courts/9jd/Efile/WestchesterCountyJointProtocols.pdf>). All documents in mandatory e-filed cases shall be filed through the New York State Courts E-Filing System (NYSCEF).

General questions about e-filing should be addressed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov.

V. Calendar Calls and Conferences

A. Appearances

Effective February 2, 2026, appearances shall be held virtually, by TEAMS, unless otherwise ordered by the Court. Notices of the scheduling of all appearances will be sent via NYSCEF. Any in-person appearances shall be held in Courtroom 1802.

For virtual appearances, parties should use the following standing TEAMS Link (<https://notify.nycourts.gov/meet/0pynde>). This TEAMS link will also be listed on the notices sent to all parties prior to the scheduled virtual appearance. Parties should note that since the TEAMS link is an active standing link for all cases, they will not receive an individual link specific to any individual case. Recording of virtual appearances is prohibited and subject to sanction. Only counsel and the parties may be present during a virtual appearance, unless other persons are expressly permitted by the Court.

Calendar Calls are currently limited to those cases that have filed a Note of Issue. The Calendar Calls are typically scheduled at 9:30 a.m. Counsel will be notified of the cases that are before the Court, by the issuance of a Scheduling Order or by notice on NYSCEF.

Counsel who appear before the Court, whether virtually or in-person, must be familiar with the case with regard to which they appear and be fully prepared and authorized to discuss and resolve the issues which are scheduled to be the subject of the appearance (*see* 22 NYCRR §202.1 [f]). Failure to comply with this rule may be treated as a default for purposes of 22 NYCRR § 202.27.

Counsel who are scheduled to appear before this Court and another Court must communicate that fact to the Part's staff prior to the date of appearance so that counsel's conflicting appearances can be reconciled. It is important for counsel to be on time for all scheduled appearances (*see* 22 NYCRR § 202.1[g]). If counsel or a party is unable to appear on time due to unforeseen circumstances (delays due to inclement weather or road closures, for example), counsel shall contact opposing counsel and shall advise the Part's staff by email as soon as possible.

Represented parties need not appear for conferences unless directed to do so by the Court. Appearances are not required on the initial return date of a Real Property Tax Law Article 7 proceeding.

B. Adjournments

A request to adjourn a conference must be made in writing by email to the Court Attorney-Referee and by letter uploaded to NYSCEF at least forty-eight (48) hours in advance of the scheduled conference.

Adjournments of conferences shall be granted upon a showing of good cause. An adjournment of a conference will not extend any deadline ordered by the Court unless otherwise directed by the Court (*see* 22 NYCRR § 202.10).

All applications for adjournments must set forth: 1) the reason why an adjournment is necessary; 2) whether the opposing party(ies) consent(s) or object(s) to the application; and 3) the length of the adjournment sought. If the adjournment is on consent, the parties shall provide alternate date(s) when all parties are available. All such communications must be copied to all counsel and self-represented parties.

Where the adjournment sought is not on consent, the requesting party must briefly set forth why the adjournment is necessary, the length of the adjournment and the reason offered by the non-consenting party for his/her lack of consent. Opposing counsel or self-represented parties may succinctly provide their reasons for objecting to the requested adjournment.

The Court will advise the requesting party by court notice via NYSCEF or reply email (with copies to all parties copied on the originating email) whether the requested adjournment has been granted. No action will be taken on requests that are not copied to all other parties. The parties should not assume that the request for an adjournment (even if consented to) has been granted unless specifically advised by the Court.

C. Calendars and Conferences

1. Conferences in Condemnation Proceedings

To place a Condemnation matter on the calendar, a Request for Judicial Intervention is required to be filed. Within forty-five (45) days of the filing of the Request for Judicial Intervention, the Court will hold a preliminary conference with counsel. Thereafter, if necessary, and upon application, a conference will be held to determine dates for discovery. Discovery is not permitted except in special circumstances on application on notice to all parties. Upon the filing of a Note of Issue and Certificate of Readiness, a further conference will be held to establish a Scheduling Order to set the exchange of all appraisals and trial dates.

2. Conferences in Tax Certiorari Proceedings

a. Preliminary Conferences

Preliminary Conferences may be requested by either party by letter application via email to the Court Attorney-Referee and uploaded to NYSCEF. The letter application shall be on notice to all parties via email and filed on NYSCEF under the index number(s) of the subject petition(s). Prior to the Preliminary Conference, Petitioner must have electronically filed the Notice of Petition and Petition with an affidavit of service and a Request for Judicial Intervention with an affidavit

of service for each tax year placed on the calendar. The letter requesting the conference must contain a good faith statement outlining the issues to be discussed at the preliminary conference for each tax year placed on the calendar. Counsel shall consult regarding the matters to be addressed at the preliminary conference and shall make a good faith effort to reach agreement in advance of the conference (*see* 22 NYCRR § 202.11).

Preliminary Conferences will be conducted by the Court Attorney-Referee. During the Preliminary Conference, the Court Attorney-Referee may address any discovery issues and/or set a motion schedule. Following the Preliminary Conference, the Court Attorney-Referee will issue a report with a recommendation establishing deadlines for completion of various items of discovery, the exchange of appraisals, and the filing of the Note of Issue. The Court Attorney-Referee may also set a date for a subsequent conference and any other dates that are necessary and appropriate.

The Court Attorney-Referee's report will be reviewed by the Court and so-ordered if approved. Counsel and self-represented litigants are expected to abide by and comply with the Court's orders and deadlines. No modifications of the dates set by the Court are permitted except by Order of the Court and for good cause shown.

Any party seeking to modify the dates set by the Court must contact the Court Attorney-Referee by email and letter via NYSCEF as soon as the basis for the request to modify arises to request a conference with the Court Attorney-Referee.

Preliminary Conferences will generally be held on Tuesdays, Wednesdays and Thursdays of the week. The parties may request additional conferences as needed and determined in each proceeding.

b. Pre-Trial Conferences

The Court will schedule a pre-trial conference within forty-five (45) days of the filing of a Note of Issue. A separate Note of Issue with Certificate of Readiness and affidavit of service for each tax year must be electronically filed to be placed on the trial calendar (*see* 22 NYCRR 202.59 § [d][2]). Prior to the pre-trial conference, counsel must confer with each other and make a good faith effort to stipulate to undisputed material facts, issues/claims that have been resolved and/or withdrawn and issues/claims remaining to be tried. The parties must submit a joint stipulation regarding the same to the Court at least forty-eight (48) hours prior to the pre-trial conference via NYSCEF.

At any time after filing of the Note of Issue and Certificate of Readiness, any party to a tax assessment review proceeding may also request a pre-trial conference (*see* 22 NYCRR § 202.59[e][1]).

At the pre-trial conference, the Court shall take whatever action is warranted to expedite final disposition of the proceedings, including, but not limited to, directing the parties to obtain appraisals and sales reports and exchange and file same appraisal reports and sales reports by dates certain before the trial, fixing a date for trial, signing any order required, conducting conferences for the purpose of facilitating settlement; and limiting issues and recording stipulations of counsel (*see* 22 NYCRR § 202.59 [e] [1] [i]-[v]). Pre-trial conferences may be conducted by the Court Attorney-Referee in a hear and report capacity to the Court. The deadlines contained in any pre-trial order cannot be modified or extended without a subsequent Court order. Any pre-trial conference will be held at least sixty (60) days prior to the trial date. All attorneys who will conduct the trial shall attend the pre-trial conference and shall be prepared to participate in settlement negotiations.

VI. Statement of Income and Expenses in Tax Certiorari Proceedings

Before the Note of Issue and Certificate of Readiness may be filed, Petitioner shall have served on Respondent, in triplicate, a statement that the property is not income-producing, or a copy of a verified or certified statement of the income and expenses on the property for each tax year under review (*see* 22 NYCRR § 202.59[b]). A Note of Issue and Certificate of Readiness shall not be filed unless all disclosure proceedings have been completed and the statement of income and expenses has been served and filed (*see* 22 NYCRR § 202.59[d][1]).

Within sixty (60) days after the service of the statement of income and expenses, Respondent, for the purpose of substantiating Petitioner's statement of income and expenses, may request in writing an audit of Petitioner's books and records for the tax years under review. If requested, the audit must be completed within 120 days after the request has been made unless the Court, upon good cause shown, extends the time for the audit. Failure of Respondent to request or complete the audit within the time limits shall be deemed a waiver of such privilege. If an audit is requested and Petitioner fails to furnish its books and records within a reasonable time after receipt of the request, or otherwise unreasonably impedes or delays the audit, the Court, on motion of Respondent, may dismiss the petition or petitions or make such other order as the interest of justice requires (*see* 22 NYCRR § 202.59[c]).

VII. Motions

All motions shall comply with the Uniform Rules for the New York State Trial Courts (22 NYCRR §§ 202.8-a, 202.8-b, 202.8-c, 202.8-d, 202.8-e, 202.8-f and 19-a.) Generally, no appearances are required and oral argument will not be heard on the return date of a motion unless otherwise directed by the Court. Motions should be made returnable on Fridays. Prior to making any motion, Counsel should attempt to resolve issues with opposing counsel. In an attempt to resolve disputed issues, counsel may request a conference with the Court Attorney-Referee. Any pre-trial issue resolved by conference or otherwise must be memorialized by a written stipulation. Upon settlement of a pending motion, counsel shall immediately notify chambers.

VIII. Appraisals

A. Appraisals in Tax Certiorari Proceedings

The procedure for the exchange and filing of appraisal reports in tax assessment review proceedings is governed by 22 NYCRR § 202.59 (g)(1). The parties are cautioned that these rules shall be strictly enforced.

The appraisal reports shall contain a statement of the method of appraisal relied on and the conclusions as to value reached by the expert, together with the facts, figures and calculations by which the conclusions were reached. If sales, leases or other transactions involving comparable properties are to be relied on, they shall be set forth with sufficient particularity as to permit the transaction to be readily identified, and the report shall contain a clear and concise statement of every fact that a party will seek to prove in relation to those comparable properties. The appraisal reports also may contain photographs of the property under review and of any comparable property that specifically is relied upon by the appraiser, unless the Court otherwise directs (*see* 22 NYCRR § 202.59 [g][2]).

Where an appraiser appraises more than one parcel in any proceeding, those parts of the separate appraisal reports for each parcel that would be repetitious may be included in one general appraisal report to which reference may be made in the separate appraisal reports (*see* 22 NYCRR § 202.59 [g][3]).

Expert witnesses shall be limited in their proof of appraised value to details set forth in their respective appraisal reports (*see* 22 NYCRR § 202.59 [h]). Any party who fails to serve an appraisal report as required shall be precluded from offering any expert testimony on value; provided, however, upon the application of any party on such notice as the Court shall direct, the Court may, upon good cause shown, relieve a party of a default in the service of a report, extend the time for exchanging reports, or allow an amended or supplemental report to be served upon such conditions as the Court may direct (*see* 22 NYCRR § 202.59 [h]). After the trial of the issues has begun, any such application must be made to the Court and shall be entertained only in unusual and extraordinary circumstances (*see* 22 NYCRR § 202.59 [h]).

The appraisal exchange date may not be intended without prior Court approval notwithstanding the stipulation of the parties to extend the deadline. Any objection to the admissibility of an appraisal is waived unless the opposing party files specific objections within thirty (30) days of service of the appraisal. A response must be filed within twenty (20) days of service of the objections.

B. Exchange of Appraisal Reports in Condemnation Proceedings

The exchange of appraisal reports in eminent domain proceedings is governed by 22 NYCRR § 202.61. The parties are cautioned that these rules shall be strictly enforced.

In all eminent domain proceedings, the exchange of appraisal reports shall be filed no later than nine months after service of the claim, demand or notice of appearance required by section 503 of the Eminent Domain Procedure Law unless otherwise extended by the Court. A Note of Issue may not be filed until such reports have been filed (*see* 22 NYCRR § 202.61[a][1]).

If a party intends to offer at trial expert evidence in rebuttal to any report, an expert report shall be filed within 60 days after receipt of the document sought to be rebutted (*see* 22 NYCRR § 202.61[a][2]).

Upon application of any party, upon good cause shown, the Court may relieve a party of a default in filing a report, extend the time for filing reports, or allow an amended or supplemental report to be filed upon such conditions as the Court may direct (*see* 22 NYCRR § 202.61[a][3]). The appraisal exchange date may not be extended without prior Court approval notwithstanding the stipulation of the parties to extend the deadline.

The parties shall be limited at trial in their affirmative proof of value to matters set forth in their respective appraisal reports. Any party who fails to file an appraisal report as required shall be precluded from offering any appraisal testimony on value (*see* 22 NYCRR § 202.61[e]).

The appraisal exchange date may not be intended without prior Court approval notwithstanding the stipulation of the parties to extend the deadline. Any objection to the admissibility of an appraisal is waived unless the opposing party files specific objections within thirty (30) days of service of the appraisal. A response must be filed within twenty (20) days of service of the objections.

IX. Trial

A. Trial Rules, Generally

The Court expects counsel and the witnesses to be present and ready to proceed promptly at 9:30 a.m. in Courtroom 1802 on the trial date. Trials will be conducted from day to day. Counsel are expected to cooperate with each other in the scheduling and production of witnesses. Failure to be ready to proceed on a scheduled trial date may result in a dismissal of the cause of action. Trial dates shall not be adjourned.

B. Actual Engagement of Counsel

Attorneys are reminded of the rules regarding actual engagement of counsel. Section 125.1[g] of the Rules of the Chief Administrator provides that attorneys designated as trial counsel must appear for trial on the scheduled trial date. If any of such attorneys is actually engaged on

trial elsewhere, he or she must produce substitute trial counsel or an affidavit of engagement no later than 72 hours prior to the commencement of the trial. If neither trial counsel nor substitute trial counsel is ready to try the case on the scheduled date, sanctions may be imposed. Attorneys are cautioned that the rules regarding actual engagement will be strictly enforced.

C. Witnesses

Each party shall identify the witnesses it intends to call, the order in which they shall testify and the estimated length of their testimony and shall provide a copy of such witness list to opposing counsel. Counsel must confer with each other regarding the witnesses to be called and the order that they will be called prior to the pre-trial conference. The parties must submit agreed upon witness lists and objections to the calling of witnesses to the Court at least forty-eight (48) hours prior to the pre-trial conference.

Counsel shall separately identify for the Court only a list of the witnesses who may be called solely for rebuttal or with regard to credibility. The Court may permit for good cause shown and in the absence of substantial prejudice, a party to call a witness to testify who was not identified on the witness list submitted by that party. The estimates of the length of testimony and the order of witnesses provided by counsel are advisory only, and the Court may permit witnesses to be called in a different order and may permit further testimony from a witness notwithstanding that the time estimate for such witness has been exceeded (*see* 22 NYCRR § 202.37).

If any of the witnesses need a language interpreter or ADA accommodations, the Court must be advised accordingly at the pre-trial conference so appropriate arrangements can be made.

D. Exhibits

Counsel for the parties shall consult prior to the pre-trial conference and shall in good faith attempt to enter into a stipulation as to the exhibits that will be offered into evidence without objection. Unless otherwise directed by the Court, prior to the commencement of the trial, each side shall mark its exhibits into evidence, subject to Court approval, as to those to which no objection has been made. All exhibits not consented to shall be marked for identification only. If the trial exhibits are voluminous, counsel shall consult the Court Attorney - Referee for guidance. Exhibits not previously demanded which are to be used solely for credibility or rebuttal need not be pre-marked (*see* 22 NYCRR § 202.34). Petitioner's exhibits shall be marked with numbers and Respondent's exhibits shall be marked with letters.

E. Motions *In Limine*

Motions *in Limine* shall be made to the Court at least seven (7) days prior to the pre-trial conference. Motions *in Limine* will be addressed during the pre-trial conference. At that time, the Court will determine and advise counsel whether the Motions *in Limine* will be resolved before trial or will be deferred until trial.

F. Pre-Trial Memoranda and Trial Notebooks

Each party shall file, at least seven (7) days before the commencement of the trial, a Pre-Trial Memorandum of Law compliant with 22 NYCRR § 202.20-h [a]. The Pre-Trial Memorandum of Law shall be filed via NYSCEF, must outline both the stipulated and disputed facts and issues, and shall not exceed ten (10) pages in length. The hard copy Trial Notebooks shall be delivered to the Part.

G. Post-trial submissions

Each party shall prepare and submit a post-trial Memorandum of Proposed Findings of Fact and Conclusions of Law. Legal arguments are to be supported by relevant case law and contain proper legal citations.

H. Post-trial Judgments

Where a proceeding has resulted in a decision after trial, any post-trial judgments are to be submitted as directed in the decision or order. If the trial decision or order applies to more than one tax year, the judgment shall list all index numbers of the proceedings settled by the order. If a decision pertains to more than one index number, it shall contain a decretal paragraph directing that a copy of the judgment be filed under the index number of each of the proceedings settled by that judgment. All judgments shall be submitted on notice and include Notice of Settlement. Orders, judgments, counter-orders and/or counter-judgments submitted for signature on notice will not be signed unless an Affidavit of Service and Notice of Settlement for a date designated in accordance with 22 NYCRR §202.48 has been included.

X. Settlements and Dismissals

Any party may request a settlement conference with the Court at any time. Counsel are advised that, in an effort to foster open settlement discussions, the Court may meet with one side or the other apart from opposing counsel. Counsel are presumed to have consented to the Court doing so unless an objection is stated.

If a proceeding has been settled prior to the trial date or any other court date, Chambers must be promptly notified in advance of any future appearance. All proposed orders settling tax assessment review proceeding(s) are to be electronically filed on NYSCEF to the Court for signature. Outstanding motions pending at the time a case is marked settled will be deemed withdrawn unless an explicit provision is made for their continuance.

In the event that the approvals by a municipality of an agreed upon settlement have not been obtained within ninety (90) days from the date Petitioner's counsel submitted a Consent Judgment to Respondent's counsel, Petitioner's counsel shall request a conference with the Court Attorney-Referee. The Court may require that a representative from Respondent municipality appear at any conference to report the status of the formal approval of the settlement.

Any tax certiorari proceeding pending for four years or more without the filing of a Note of Issue, shall be placed on a special dismissal calendar, and all counsel of record shall be notified of the calendar. However, the court retains the authority to *sua sponte* dismiss these matters pursuant to RPTL Section 718(1).