

22 NYCRR § 202.21

This document reflects those changes received from the NY Bill Drafting Commission through August 1, 2025

NY - New York

Codes, Rules and Regulations >

TITLE 22. JUDICIARY >

SUBTITLE A. JUDICIAL ADMINISTRATION >

CHAPTER II. UNIFORM RULES FOR THE NEW YORK STATE TRIAL COURTS >

PART 202. UNIFORM CIVIL RULES FOR THE SUPREME COURT AND THE COUNTY COURT

§ 202.21 Note of issue and certificate of readiness

(a) General. No action or special proceeding shall be deemed ready for trial or inquest unless there is first filed a note of issue accompanied by a certificate of readiness, with proof of service on all parties entitled to notice, in the form prescribed by this section. Filing of a note of issue and certificate of readiness is not required for an application for court approval of the settlement of the claim of an infant, incompetent or conservatee. The note of issue shall include the county clerk's index number; the name of the judge to whom the action is assigned; the name, office address and telephone number of each attorney who has appeared; the name, address and telephone number of any party who has appeared pro se; and the name of any insurance carrier acting on behalf of any party. Within 10 days after service, the original note of issue, and the certificate of readiness where required, with proof of service where service is required, shall be filed in duplicate with the county clerk together with payment of the calendar fee prescribed by CPLR 8020 or a copy of an order permitting the party filing the note of issue to proceed as a poor person, and a duplicate original with proof of service shall be filed with the clerk of the trial court. The county clerk shall forward one of the duplicate originals of the note of issue to the clerk of the trial court stamped "Fee Paid" or "Poor Person Order."

(b) Forms. The note of issue and certificate of readiness shall read substantially as follows:

NOTE OF ISSUE

Calendar No. (if any)

..... For use of clerk

Index No.

.....

.....Court, County

Name of assigned judge.....

Notice for trial

Trial by jury demanded _____

_____ of all issues

_____ of issues specified below

_____ or attached hereto

Trial without jury _____

Filed by attorney for _____

Date summons served _____

Date service completed _____

Date issue joined _____

Nature of action or

special proceeding

Tort:

Motor vehicle negligence _____

Medical malpractice _____

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Other tort _____

Contract _____

Contested matrimonial _____

Uncontested matrimonial _____

Special preference Tax certiorari _____

claimed under _____ Condemnation _____

on the ground that _____ Other (not itemized above) _____

_____ (specify) _____

Attorney(s) for Plaintiff(s) Indicate if this action is

Office and P.O. Address: brought as a class action _____

Phone No.

Attorney(s) for Defendant(s) Office and P.O. Address: Phone No.

Amount demanded \$ _____

Other relief _____

Insurance carrier(s), if known:

NOTE: The clerk will not accept this note of issue unless accompanied by a certificate of readiness.

CERTIFICATE OF READINESS FOR TRIAL(Items 1-7 must be checked)

Not

Complete Waived required

1. All pleadings served.

2. Bill of particulars

served.

3. Physical examinations

completed.

4. Medical reports

exchanged.

5. Appraisal reports

exchanged.

6. Compliance with section

202.16 of the Rules of the

Chief Administrator (22

NYCRR 202.16) in

matrimonial actions.

7. Discovery proceedings

now known to be necessary

completed.

8. There are no outstanding

requests for discovery.

9. There has been a reasonable

opportunity to complete the

foregoing proceedings.

10. There has been compliance

with any order issued

pursuant to section 202.12

of the Rules of the Chief

Administrator (22 NYCRR

202.12).

11. If a medical malpractice

action, there has been
compliance with any order
issued pursuant to section
202.56 of the Rules of the
Chief Administrator (22 NYCRR
202.56).

12. The case is ready for trial.

Dated: _____

(Signature) _____

Attorney(s) for: _____

Office and P.O. address: _____

(c) Jury trials. A trial by jury may be demanded as provided by CPLR 4102. Where a jury trial has been demanded, the action or special proceeding shall be scheduled for jury trial upon payment of the fee prescribed by CPLR 8020 by the party first filing the demand. If no demand for a jury trial is made, it shall constitute a waiver by all parties and the action or special proceeding shall be scheduled for nonjury trial.

(d) Pretrial proceedings. Where a party is prevented from filing a note of issue and certificate of readiness because a pretrial proceeding has not been completed for any reason beyond the control of the party, the court, upon motion supported by affidavit, may permit the party to file a note of issue upon such conditions as the court deems appropriate. Where unusual or unanticipated circumstances develop subsequent to the filing of a note of issue and certificate of readiness which require additional pretrial proceedings to prevent substantial prejudice, the court, upon motion supported by affidavit, may grant permission to conduct such necessary proceedings.

(e) Vacating note of issue. Within 20 days after service of a note of issue and certificate of readiness, any party to the action or special proceeding may move to vacate the note of issue, upon affidavit showing in what respects the case is not ready for trial, and the court may vacate the note of issue if it appears that a material fact in the certificate of readiness is incorrect, or that the certificate of readiness fails to comply with the requirements of this section in some material respect. However, the 20-day time limitation to make such motion shall not apply to tax assessment review proceedings. After such period, except in a tax assessment review proceeding, no such motion shall be allowed except for good cause shown. At any time, the court on its own motion may vacate a note of issue if it appears that a material fact in the certificate of readiness is incorrect, or that the certificate of readiness fails to comply with the requirements of this section in some material respect. If the motion to vacate a note of issue is granted, a copy of the order vacating the note of issue shall be served upon the clerk of the trial court.

(f) Reinstatement of note of issue. Motions to reinstate notes of issue vacated pursuant to this section shall be supported by a proper and sufficient certificate of readiness and by an affidavit by a person having first-hand knowledge showing that there is merit to the action, satisfactorily showing the reasons for the acts or omissions which led to the note of issue being vacated, stating meritorious reasons for its reinstatement and showing that the case is presently ready for trial.

(g) Limited specification of damages demanded in certain actions. This subdivision shall apply only in counties where the Chief Administrator of the Courts has established arbitration programs pursuant to Part 28 of the Rules of the Chief Judge of the State of New York pertaining to the arbitration of certain actions (22 NYCRR Part 28). In a medical malpractice action or an action against a municipality seeking a sum of money only, where the party filing the note of issue is prohibited by the provisions of CPLR 3017(c) from stating in the pleadings the amount of damages sought in the action, the party shall indicate on the note of issue whether the amount of damages exceeds \$

6,000, exclusive of costs and interest. If it does not, the party shall also indicate if it exceeds \$ 2,000, exclusive of costs and interest.

(h) Change in title of action. In the event of a change in title of an action by reason of a substitution of any party, no new note of issue will be required. Notice of such substitution and change in title shall be given to the assigned judge and to the clerk within 10 days of the date of an order or stipulation effecting the party substitution or title change.

(i) Additional Requirements with Respect to Uncontested Matrimonial Actions.

(1) Uncontested matrimonial actions, proceedings for dissolution of marriages and applications of declaratory judgments shall be assigned to judges or special parts of court as the Chief Administrator shall authorize.

(2) There shall be a Unified Court System Uncontested Divorce Packet which shall contain the official forms for use in uncontested matrimonial actions. The Packet shall be available in the Office of the Clerk of the Supreme Court in each county, and the forms shall be filed with the appropriate clerk in accordance with the instructions in the Packet. These forms shall be accepted by the Court for obtaining an uncontested divorce, and no other forms shall be necessary. The Court, in its discretion, may accept other forms that comply with the requirements of law.

(3) The proposed judgments shall be numbered in the order in which they are received and submitted in sequence to the judge or referee.

(4) Unless the court otherwise directs, the proof required by statute must be in writing, by affidavits, which shall include a sufficient factual statement to establish jurisdiction, as well as all elements of the cause of action warranting the relief sought.

(5) If the judge or referee believes that the papers are insufficient, the complaint shall either be dismissed for failure of proof or a hearing shall be directed to determine whether sufficient evidence exists to support the cause of action.

(6) Whether upon written proof or at the conclusion of a hearing, the judge or referee shall render a decision and sign the findings of fact, conclusions of law and the judgment, unless for reasons stated on the record decision is reserved.

(7) Where a hearing has been held, no transcript of testimony shall be required as a condition precedent to the signing of the judgment, unless the judge or referee presiding shall so direct.

Statutory Authority

Statutory authority:

Judiciary Law, Art. 2

History

HISTORY:

Added 202.21 on 1/06/86; amended 202.21 on 9/17/91; amended 202.21 (i) opening paragraph on 6/17/98; amended 202.21 (i)(1) on 6/17/98; amended 202.21 (i)(2) on 6/17/98.

NEW YORK CODES, RULES AND REGULATIONS