



*State of New York
Court of Appeals*

*Heather Davis, Esq.
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095
518-455-7700*

June 3, 2025

**TO: ALL COUNSEL OF RECORD
VIA EMAIL**

**Re: Clarke v. Town of Newburgh
APL-2025-00110**

Dear Counselors:

This letter acknowledges receipt and administrative review of appellants' preliminary appeal statement.

This appeal will be calendared for argument during the October session. The briefing deadlines set forth below will not be extended absent extraordinary circumstances. Amicus curiae motions relating to this appeal shall be served no later than August 26, 2025, to be submitted to the Court on a return date of September 8, 2025.

Before filing and uploading briefs or record material, counsel should carefully review the Court's Rules of Practice (22 NYCRR Part 500) and the attached Checklist for Appeal Filings, Notice on Confidential and Sensitive Information, and Technical Specifications.

Clarke v. Town of Newburgh

June 3, 2025

-Page 2-

Counsel must immediately notify the Clerk's Office of any developments that could affect the appeal: contemplated and actual settlements; circumstances or facts that could render the matter moot; pertinent developments in applicable law, statutes, and regulations; and changes in the status of related proceedings at other courts or tribunals.

Briefing Schedule for Appeal

Appellants' brief and record material shall be served and filed by July 8, 2025.

Unless exempt, appellants must remit with the filing of record material the CPLR 8022 fee (\$315.00) by attorney's check, certified/cashier's check, or money order payable to "State of New York, Court of Appeals" (Rule 500.3[a]).

Respondents' briefs and any supplementary record material shall be served and filed by August 5, 2025.

Appellants may serve and file a reply brief by August 19, 2025.

"Filed" means receipt of the paper document by the Clerk's Office. An original and nine copies of each brief and appendix or record must be filed, with proof of service of three copies on each other party.

Requests for extensions of the due dates require a showing of good cause (Rule 500.15). Failure to comply with these due dates or extended due dates shall subject appellant to dismissal of the appeal and respondent to preclusion (Rule 500.16[a]).

Digital Submission Requirements

On or before the due dates listed above, parties must submit digital versions of each paper filing (Rules 500.2, 500.12[h], 500.14[g]) by uploading them to the Court of Appeals Public Access and Search System (Court-PASS) on the Court's web site (www.courts.state.ny.us/ctapps). The digital versions must be identical to each paper filing, except the digital version will not have an original signature.

Clarke v. Town of Newburgh

June 3, 2025

-Page 3-

To login to Court-PASS, registered New York attorneys will use their Attorney Online Service Account information. Filers who are not registered New York attorneys must call the Clerk's Office to obtain guest login credentials.

For this appeal, the login number is **APL-2025-00110**.

Questions may be directed to Edward Ohanian at 518-455-7701.

Very truly yours,

A handwritten signature in black ink, appearing to read 'H. Davis', with a stylized flourish extending to the right.

Heather Davis

HD/EO/ks

CHECKLIST FOR NORMAL COURSE APPEAL FILINGS

Before filing a **brief** on a normal course appeal, the filer should ensure that the following requirements have been satisfied. This list is not exhaustive, but addresses the most common issues with briefs.

- The brief is signed and dated.
- The formatting complies with Rule 500.1.
- A word count certification is included (see Rule 500.13[c]).
- The cover page displays, in the upper right hand corner, the arguing attorney's full name and the time requested for oral argument.
- A corporate disclosure statement, if applicable, is included (see Rule 500.1[f]).
- Citations are to record or appendix pages (see Rule 500.13(a)).
- Citations in the Table of Authorities are to the official reporter, if available.
- Unpublished cases are attached to the brief as an addendum.
- Any cited material that is not readily available is provided in a separately bound filing (typically denominated a "Compendium of Authorities Cited in [party's] Brief").

If the filing is an Appellant's opening brief, the filer should also confirm the following:

- The \$315 fee pursuant to CPLR 8022 is included (check made out to "State of New York, Court of Appeals"). If exempt, include a letter to the Clerk explaining the basis for the exemption.
- Record material has been supplied in accordance with Rule 500.14.
 - The record or appendix includes (1) the statement required by CPLR 5531 and (2) a certification pursuant to CPLR 2105 or stipulation pursuant to CPLR 5532.
 - If filing an appendix, the appellant has either (1) subpoenaed the original file from the clerk of original instance (Rule 500.14[a][1]), unless appellant is represented by assigned counsel or has established indigency, or (2) filed one copy of the reproduced record used at the intermediate appellate court (Rule 500.14[a][2]).

For all filings (briefs, records, appendices, compendiums), ensure the following:

- The cover displays the letter/number combination listed on the subject line of the scheduling letter (e.g. APL 2017-00000; CTQ 2017-00000; JCR 2017-00000).
- An original and nine copies have been filed and three copies have been served on each other party.
- An affidavit of service is included (affixed to the inside of the back cover of the filing), indicating service of three copies on each other party.
- If the filing is confidential, the document cover is marked "CONFIDENTIAL" and a letter has been supplied to the Clerk, copied on all other parties, stating the basis for the confidentiality of the filing.
- A digital version of the filing has been uploaded to the Court-PASS system.
 - The filing complies with the Court's Technical Specifications (enclosed with scheduling letter and available at <http://www.courts.state.ny.us/ctapps/techspecs.htm>)
 - The filing uses the proper naming conventions (provided in the scheduling letter)



State of New York
Court of Appeals

Heather Davis, Esq.
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095

NOTICE

CONFIDENTIAL AND SENSITIVE DOCUMENTS

In the absence of a statute that limits public access to court records or a court order sealing records, court records are presumptively open to the public (see Nicholson v State Commission on Judicial Conduct, 50 NY2d 597, 613 [1980]). The rules and conditions of public access to court case records are the same whether those records are made available in paper form or electronically (Report to the Chief Judge of the State of New York, Commission on Public Access to Court Records [February 2004]).

Parties filing with the Court of Appeals are responsible for ensuring that confidential and sensitive materials are identified and appropriately labeled confidential or redacted to prevent public disclosure. Failure to comply will result in rejection of the filing and require refiling of your papers in compliance with this notice.

I. Confidential Filings

If a filing is confidential and not subject to public inspection under New York law, the word "CONFIDENTIAL" must be prominently marked on the cover of the document, and the filer must provide a letter addressed to the Clerk and copied to all parties stating the basis for the confidentiality of the filing. If a sealing order has been issued, a copy of the order should be

provided with the letter to the Clerk. If only part of a filing is confidential, that part must be filed in a separate volume, and marked and explained as stated above.

II. Sensitive Material

A filing not subject to confidential treatment might nevertheless contain sensitive material not appropriate for public view. Information of this type includes, but is not limited to: social security, taxpayer identification or financial account numbers; full dates of birth; exact street addresses; e-mail addresses; telephone numbers; names of minor children; names of children's schools; names of employers; or other information that would identify a person whose identity should not be revealed (e.g., a victim of a sex crime or domestic violence). Filers should omit from their briefs sensitive material not pertinent to an issue on appeal. If omission is not possible or if sensitive material is contained in the record or appendix, redaction is appropriate. For example, for social security, taxpayer identification or other financial account numbers, only the last four digits should be used. With dates of birth, the year is often sufficient. When identifying minor children, initials are appropriate. When sensitive information is pertinent to the issues on appeal, and the filer does not know how to proceed, the filer should contact the Clerk's Office to discuss options for presenting the material.

Some of the statutory grounds for treating a filing as confidential appear below; however, the list is for assistance only, and is not necessarily exhaustive.

1. Youthful offender adjudications (CPL 720.15 and 720.35)
2. Successful completion of a judicially sanctioned drug treatment program (CPL 160.58)
3. Grand jury reports or minutes (CPL 190.25[4][a])
4. Juror questionnaires and records (Judiciary Law § 509[a])
5. Probation or pre-sentence reports or memoranda (CPL 390.50)
6. Criminal history records (e.g., arrest records, rap sheet) (CPL 160.50[3]; 42 USC § 3789[g]; 28 CFR Part 20)
7. Alcohol and drug treatment records (Mental Hygiene Law § 22.05; 42 CFR Part 2)
8. Documents that identify a victim of a sex offense or an offense that involves the transmission of HIV (Civil Rights Law § 50-b)
9. Sex offender registration forms (Correction Law § 168-b)

10. Applications to disclose HIV-related information (Public Health Law § 2785[3]); or proceedings to compel the examination or isolation of persons suspected of having venereal disease (Public Health Law § 2301[3])
11. Civil commitment proceedings under Mental Hygiene Law article 10 (Mental Hygiene Law § 33.13[c])
12. Involuntary commitment proceedings (Mental Hygiene Law § 9.31[f])
13. Proceedings to commit a mentally ill inmate (Corrections Law § 402[6])
14. Records concerning a patient in a facility licensed or operated by the Office of Mental Health or the Office for People with Developmental Disabilities (Mental Hygiene Law § 33.13)
15. Matrimonial actions (Domestic Relations Law § 235)
16. Adoption proceedings (Domestic Relations Law § 114)
17. Family Court proceedings (Family Court Act § 166)

NEW YORK STATE COURT OF APPEALS
Technical Specifications and Instructions for Submission of
Briefs and Record Material in Digital Format

1. Digital submissions shall be transmitted to the Clerk's Office by uploading them to the Court of Appeals Public Access and Search System (Court-PASS).
 2. To upload digital submissions to Court-PASS, New York attorneys must be registered with the New York State Unified Court System's Attorney Online Services. Filers who are not New York attorneys must use "guest" login credentials, which will be provided by the Clerk's Office.
 3. All digital submissions to the Court of Appeals shall be in text searchable portable document format (PDF).
 4. The digital submissions shall be named in accordance with the conventions provided by the Clerk's Office.
 5. Filers must complete the Court's confidential and sensitive materials attestation form when uploading digital submissions to Court-PASS. The form is intended to ensure compliance with the Court's sealing and redaction requirements.
 6. Digital submissions may not exceed a file size of 100 megabytes. Filers are permitted to upload up to five documents per uploading session.
 7. Removing metadata from digital submissions is the filer's responsibility.
 8. To ensure effective redaction, the filer must use redaction methods that permanently remove sensitive content from all metadata and all document layers. Some PDF editing programs as well as specialized redaction tools can help ensure thorough redaction.
 9. If a document does not conform to the Court's requirements, including sealing and redaction requirements, the Clerk's Office will direct the filer to resubmit the document. Such resubmission is mandatory and must be accomplished within the time set by the Clerk's Office.
 10. A filer who has not been directed to resubmit a document, but wishes to do so, must obtain prior approval from the Clerk's Office.
 11. Uploading digital submissions to Court-PASS does not satisfy the filing due dates set by the Clerk's Office in a scheduling letter or by operation of the Court's Rules of Practice. The filer is responsible for meeting applicable due dates by filing the required number of paper documents with the Clerk's Office. A document is "filed" with the Clerk's Office on the date of receipt of the paper document. The digital submissions shall be uploaded to Court-PASS no later than the filing due date for paper documents.
 12. By uploading documents to Court-PASS, a filer attests that the digital submissions being uploaded are identical to the filed original printed material, except that the digital submissions do not contain an original signature.
-

Naming Conventions for Briefs and Record Material

The appropriate title of the action can be found in the briefing letter sent to parties.

These naming conventions use the parties' designation in the Court of Appeals (i.e. role), not the court of original instance or the intermediate appellate court.

ABBREVIATIONS:

appellant: app	amicus or amici brief: amicbrf
respondent: res	appendix: appdx
amicus or amici: amic	supplemental appendix: suppappdx
brief: brf	Appellate Division brief: ADbrf
reply brf: replybrf	Appellate Division reply brief: ADreplybrf
record on appeal: Rec	Appellate Division Record: ADRec
	Brief in response to amicus brief: BrfRspAmic

PDF FILE NAMING CONVENTIONS:

Briefs: title of action-role-name-brf.pdf

Reply Briefs: title of action-role-name-replybrf.pdf

Appendices: title of action-role-name-appdx.pdf

Court of Appeals Records: title of action-role-name-Rec.pdf

Multiple Volumes (if more than one volume of a record is filed, each volume should be a separate file): title of action-role-name-Rec-vol1.pdf

Letter Briefs (for Rule 500.11 appeals): title of action-role-name-SSMltrbrf.pdf

Appellate Division materials:

title of action-role-name-ADbrf.pdf

title of action-role-name-ADreplybrf.pdf

title of action-role-name-ADRec.pdf

See examples on reverse side

Examples

Title of Action: Smith v Jones (as found in briefing schedule letter from Clerk's Office)

Appellant: Smith

Respondents: Jones and Brown

Amici: Concerned Citizens et al.

Smith files a brief and a 4 volume record. The PDF files would be named:

SmithvJones-app-Smith-brf.pdf

SmithvJones-app-Smith-Rec-vol1.pdf

SmithvJones-app-Smith-Rec-vol2.pdf

SmithvJones-app-Smith-Rec-vol3.pdf

SmithvJones-app-Smith-Rec-vol4.pdf

Jones files a brief. The PDF file would be named:

SmithvJones-res-Jones-brf.pdf

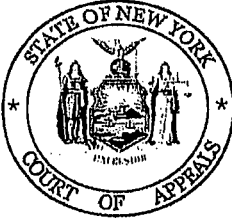
Brown files a brief and supplemental appendix. The PDF files would be named:

SmithvJones-res-Brown-brf.pdf

SmithvJones-res-Brown-suppappdx.pdf

Concerned Citizens et al. files an amici brief. The PDF file would be named:

SmithvJones-amic-ConcernedCitizens-amicbrf.pdf



State of New York
Court of Appeals
20 Eagle Street
Albany, New York 12207-1095
www.nycourts.gov/courts/appeals

2025

January						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February						
Su	Mo	Tu	We	Th	Fr	Sa
					1	
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

April						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

June						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

July						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November						
Su	Mo	Tu	We	Th	Fr	Sa
					1	
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



State of New York
Court of Appeals
20 Eagle Street
Albany, New York 12207-1095
www.nycourts.gov/courts/appeals

2026

January						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

February						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

March						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

May						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August						
Su	Mo	Tu	We	Th	Fr	Sa
					1	
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3		
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		