

**INSTRUCTIONS FOR FILING AN
APPELLATE TERM, SECOND DEPARTMENT
ORDER TO SHOW CAUSE**

- (A) Caption: Write the names of the parties involved in the case. The caption must be written in the same order that it is in the court where your case is originally from.
- (B) If you already have an appeal pending with the Appellate Term and were given a docket number, write that number in the space indicated.
- (C) The Lower Court Index Number is the case number given to you by the court where your case is originally from.
- (D) Upon the annexed affidavit of **(write your name)**, dated **(write in the date you will have your papers sworn to before the notary public)**, and the papers annexed thereto,
- (E) **LET (Insert the other party's role in the case: PETITIONER, RESPONDENT, DEFENDANT OR APPELLANT)**
- (F) Check the relief you are seeking in this court. You may check more than one relief. If the relief you are seeking is not listed, you may check OTHER and write in the relief.

SKIP TO PAGE 3

(If the Judge grants your application for the temporary relief you are seeking, he/she will fill out this page.)

- (G) Caption: Write the name of the parties involved in the case. The caption must be written in the same order that it is in the court where your case is originally from.
- (H) If you already have an appeal pending with the Appellate Term and were given a docket number, write that number in the space indicated.
- (I) The Lower Court Index Number is the case number given to you by the court where your case is originally from.
- (J) Indicate the county where you are having your affidavit in support sworn to before the notary public.
- (K) I, **(write your name)**, being duly sworn, depose and say that:
- (L) I am the **(indicate how you are appearing in this action or proceeding, PETITIONER, RESPONDENT, DEFENDANT OR APPELLANT)** in the above entitled proceeding and make this affidavit in support of the motion for (write the relief you are seeking).

- (M) Indicate the type of proceeding.
- (N) If you are filing an Order to Show Cause to be restored to possession, stay removal of your belongings or to stay the reletting of the premises, you must provide this court with an alternative address for service of opposition papers (if your Order to Show Cause is granted).
- (O) In numbers 3, 4, 5, and 6, write the reasons you are submitting this Order to Show Cause. Write all the information you want the Judge to know since you will not speak to the judge regarding this submission. You may also attach copies of any documentation (letters, receipts, etc.) that has already been seen by the judge in the original court).
- (P) Indicate in number 7 whether any previous Orders to Show Cause or other filings have been made. If so, list the dates.
- (Q) Summarize the relief you are requesting.
- (R) Have your sworn affidavit in support signed and dated in front of a notary public.
- (S) Insert the date when your are filling out this affidavit and the county where your affidavit was sworn to before a notary public. Sign and print your name.

NOTE: this certification page is not required if your appeal originates from criminal court, town or village court or the small claims part of any court.

ATTACH COPIES OF YOUR NOTICE OF APPEAL, PROOF OF ITS FILING, STIPULATIONS, ORDERS AND/OR JUDGMENTS REGARDING YOUR CASE TO THIS ORDER TO SHOW CAUSE.

MAKE COPIES OF EVERYTHING YOU SUBMIT TO THIS COURT - YOUR ORIGINAL PAPERS WILL NOT BE RETURNED.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERMS: 2ND, 11TH & 13TH AND 9TH & 10TH JUDICIAL DISTRICTS

(A)

ORDER TO SHOW CAUSE

-against-

Appellate Term Docket Number:

(B)

Lower Court Index No. (C)

Upon the annexed affidavit of (D), dated _____, 2_____, and the papers annexed thereto,

LET (E) SHOW CAUSE BEFORE

THIS COURT, at the courthouse thereof, located at 141 Livingston Street, 15th Floor, Brooklyn, New York, 11201, on the _____ day of _____, 2_____, at 10:00 o'clock in the forenoon of that date, why an order should not be made and entered:

- Staying the Eviction (F)
- Staying the trial
- Staying enforcement of money judgment
- Staying the Sentence
- Staying Execution of the Warrant
- Restore to Possession
- Other: _____

And, granting such other and further relief as to the court may seem just and equitable.

SUFFICIENT CAUSE THEREFOR APPEARING, it is

**** THE BALANCE OF INFORMATION ON THIS PAGE AND THE NEXT PAGE TO BE COMPLETED BY THE COURT****

ORDERED that service of a copy of this order to show cause and the papers upon which it was made upon _____ by

- personal delivery pursuant to CPLR 2103(b)(1) or 2103(c)
- office delivery pursuant to CPLR 2103(b)(3)
- overnight delivery service pursuant to CPLR 2103(b)(6)
- first class mail with certificate of mailing at the Post Office

on or before _____, 2_____, shall be deemed sufficient service thereof, and it is further;

ORDERED that opposition papers, if any, must be served by

- personal service at least two (2) days prior to the return date herein; and it is further,
- overnight delivery service at least three (3) days prior to the return date herein; and it is;

ORDERED that (provision not applicable unless initialed by justice of Appellate Term):

_____ Pending the hearing and determination of this motion and entry of an order hereon, LET all proceedings on part of the respondent(s), or any person acting on behalf of the respondent(s) including the attorney(s) and agent(s) of the respondent(s) and, if applicable, any marshal or sheriff **BE STAYED**.

_____ The above temporary stay is conditioned upon the movant depositing with the Clerk of the Court in the lower court the sum of \$ _____ on or before 5:00PM on _____. Said amount is to remain on deposit until the appeal is determined or unless otherwise ordered by the court. If the deposit is not timely made, then the temporary stay is deemed vacated. **Check with the lower court to determine the acceptable methods of payment and the location where the deposit must be made.**

_____ Proof of service and of deposit (if deposit is required) must be filed with the clerk of this court no later than 5:00PM on _____.

_____ These papers may be served by the appellant in person.

Dated: Brooklyn, New York

_____, 2_____

PRESIDING / ASSOCIATE JUSTICE
APPELLATE TERM: 2ND DEPARTMENT

NOTE: On the return date all motions and proceedings are deemed submitted. Oral argument is not permitted (22 NYCRR 731.7 & 732.7).

IF YOU HAVE BEEN SERVED WITH THESE PAPERS YOU MAY CALL THE APPELLATE TERM CLERK'S OFFICE AT (347) 401-9580 TO VERIFY THE AUTHENTICITY OF THE PAPERS.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERMS: 2ND, 11TH & 13TH AND 9TH & 10TH JUDICIAL DISTRICTS

(G)

-against-

**AFFIDAVIT IN SUPPORT OF
ORDER TO SHOW CAUSE**

Appellate Term Docket Number:

_____ (H) _____

Lower Court Index No. ____ (I) _____

State of New York _____)
County of _____ (J) _____) s.s.:

I, _____ (K) _____, being duly sworn, depose and
say that:

1. I am the _____ (L) _____ in the above entitled proceeding and make
this affidavit in support of the motion for _____.

2. The type of the above entitled proceeding is as follows:

- | | |
|--|--|
| <input type="checkbox"/> Landlord & Tenant (non-payment) (M) | <input type="checkbox"/> Criminal |
| <input type="checkbox"/> Landlord & Tenant (holdover) | <input type="checkbox"/> Traffic Violation |
| <input type="checkbox"/> Small Claims | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Civil | |

*** In the space below provide an alternative address for service of opposition papers if you are making an Order to Show Cause to be restored to possession, stay removal of your belongings or to stay the re-letting of the premises.

(N)

My grounds or reasons are as follows:

3.

(O)

4.

5.

6.

SAMPLE

7. No previous application has been made for the relief requested herein except:
(If any previous application has been made, it must be described below.)

(P)

8. I have no other person available to effectuate service of this order to show cause and therefore request permission to serve this order myself.

WHEREFORE, I request that the court grant me the following relief: _____

(Q)

Dated: _____, 2____
_____, New York

(SIGNATURE OF THE PERSON MAKING THIS APPLICATION - BEFORE A NOTARY PUBLIC)

Sworn to before me this
_____ day of _____, 2____

Notary Public

CERTIFICATION PURSUANT TO §22 NYCRR 130-1.1-a

I hereby certify Pursuant to § 22 NYCRR 130-1.1-a(b) that to the best of my knowledge, information and belief, after an inquiry reasonable under the circumstances, that the contents of this document are not frivolous.

Dated: _____ (S) _____
_____, New York

(signature)
Print Name:

NOTE: This document is not required in relation to appeals from criminal courts, town or village courts or the small claims part of any court.

SAMPLE