

Part 800

Rules of Practice

Section

Section 800.24-a Pre-calendar Statement for Civil Appeals.

Section 800.24-b Civil Appeals Settlement Program

Section 800.24-a Pre-calendar Statement for Civil Appeals.

(a) In every civil case in which a notice of appeal is filed or an order granting leave to appeal is entered, except in appeals in proceedings pursuant to the Election Law and CPLR articles 70 and 78, appeals in family court proceedings involving child abuse or neglect, juvenile delinquency or persons in need of supervision, appeals from decisions of the Unemployment Insurance Appeal Board and Workers' Compensation Board, and appeals pursuant to section 168-n (subd. 3) of the Correction Law, appellant shall also file, together with the notice of appeal or order granting leave to appeal, a pre-calendar statement.

(b) The pre-calendar statement, entitled as same, must set forth:

- (1) The title of the underlying action or proceeding and the date of commencement;
- (2) The full names of the original parties and any change in the parties;
- (3) The name, address, telephone number and facsimile telephone number of counsel for appellant;
- (4) The name, address, telephone number and facsimile telephone number of counsel for each respondent and counsel for each other party;
- (5) The court, judge or justice, and county from which the appeal is taken, together with the index number and the request for judicial intervention (RJI) number;
- (6) The specific nature and object of the underlying action or proceeding (e.g., automobile negligence personal injury action seeking money damages; breach of contract action seeking specific performance; family court proceeding seeking modification of child custody and visitation order; divorce action involving equitable distribution; real property action involving a boundary-line dispute

and adverse possession);

(7) A clear and concise statement of the issues to be raised on the appeal and the grounds for reversal or modification to be advanced;

(8) Whether there is another pending appeal or pending related action or proceeding, briefly describing same.

(c) Appellant shall attach to the pre-calendar statement a copy of the order or judgment appealed from, the opinion or decision, if any, and a copy of the notice of appeal or order granting leave to appeal.

(d) The clerk of the court from which the appeal is taken shall promptly transmit the pre-calendar statement and its attachments to the Appellate Division, Third Department.

(e) Forms. The pre-calendar statement shall read substantially as follows:

PRE-CALENDAR STATEMENT
State of New York
Supreme Court - Appellate Division
Third Judicial Department

1. Case Title:

Set forth the full case title as it appears on the order or judgment appealed from. If there are more than two case titles, please use [Case Title Addendum](#).

State of New York
_____ Court County of _____

County Index No.: _____

RJI No.: _____

Date of
Commencement: _____

- against -

2. Parties Involved:

Set forth the full names of the original parties and any change in parties. If you need more space for parties, please use [Additional Parties Addendum](#).

Party Name
(e.g., John Doe)

Original Status
(e.g., Defendant)

Appellate Status
(e.g., Appellant)

3. Counsel for Appellant(s):

Set forth the name, address, e-mail address, telephone number and facsimile telephone number of counsel for appellant(s). If you need more space for counsel for appellant(s), please use [Counsel for Appellant\(s\) Addendum](#).

Name

Address

E-mail address

Telephone

Fax

4. Counsel for Respondent(s) and Counsel for Other Parties:

Set forth the name, address, e-mail address, telephone number and facsimile telephone number of counsel for respondent(s) and for each other party. If you need more space for counsel for respondent(s) or counsel for other parties, please use [Counsel for Respondent\(s\) or Other Parties Addendum](#).

Name

Address

E-mail address

Telephone

Fax

5. Court, Judge and County:

Identify the court, judge or justice, and the county from which the appeal is taken.

6. Nature and Object of Action or Proceeding:

Concisely set forth the nature and object of the underlying action or proceeding.

7. Appellate Issue(s):

Set forth a clear and concise statement of the issue(s) to be raised on the appeal, the grounds for reversal or modification to be advanced and the specific relief sought on the appeal. If you need more space to state appellate issue(s), please use [Appellate Issues Addendum](#).

8. Additional Information:

Please set forth any information you deem relevant to the determination of whether the matter is appropriate for a Civil Appeals Settlement Program (CASP) conference. If you need more space to state appellate issue(s), please use [Additional Information Addendum](#).

9. Other Related Matters:

Indicate if there is another related action or proceeding, identifying and briefly describing same.

Submitted by:

Signature

Print Name: _____

Attorney for: _____

Date: _____

10. Attachments

Check

- | | | |
|--|-------|----------------|
| 1. Copy of order or judgment appealed from | _____ | attached |
| 2. Copy of opinion or decision. | _____ | attached |
| | _____ | does not exist |
| 3. Copy of notice of appeal or order granting leave to appeal. | _____ | attached |

Attach copies, not originals.

File this original form with attachments when original notice of appeal is filed in the office where the judgment or order of court of original instance is entered.

A copy of this document must be served upon all counsel and pro se parties.

The Civil Appeals Settlement Program (CASP) functions independently of the appeals function of the Appellate Division, Third Department with the intent to assist the parties in pragmatically resolving their disputes by agreement. The progress of and communications in matters in CASP are not shared with the Court as part of the appeal and play no role in the Court's resolution of an appeal.

The communications and opinions expressed at a CASP conference are considered confidential and may not be communicated to the Court as part of the merits of an appeal. The consideration of an appellate matter by CASP does not excuse compliance with any Appellate Division, Third Department rule concerning the timely perfection of the appeal.

Section 800.24-b Civil Appeals Settlement Program

(a) The court, in those cases in which it deems it appropriate, will issue a notice directing the attorneys for the parties and the parties themselves (unless the court excuses a party's personal presence) to attend a pre-calendar conference before such person as it may designate to consider settlement, the limitation of issues and any other matter which such person determines may aid in the disposition of the appeal or resolution of the action or proceeding. Where parties are represented by counsel, only attorneys fully familiar with the action or proceeding, and authorized to make binding stipulations or commitments, or accompanied by a person empowered to act on behalf of the party represented, shall appear at the conference.

(b) Any attorney or party who, without good cause shown, fails to appear for or participate, with the familiarity and authorization described in subdivision (a) of this section, in a regularly scheduled pre-calendar conference, or who fails to comply with the terms of a stipulation or order entered following a pre-calendar conference, may be subject to such sanctions and/or to such costs in the form of reimbursement for actual expenses incurred and reasonable attorneys' fees as the court may direct.

(c) Should a pre-calendar conference not be scheduled within 30 days after the filing of a pre-calendar statement, any party may apply to the court by letter requesting such conference. The application shall include a brief statement indicating why a conference would be appropriate.

(d) The presiding justice shall appoint a departmental advisory committee consisting of attorneys who regularly attend the civil appeals settlement program conferences and include at least one former or current civil appeals settlement program settlement officer and such additional persons as the presiding justice deems necessary to perform the functions of the advisory committee. The departmental advisory committee shall meet annually for the purpose of making recommendations to the presiding justice with respect to enhancements of the program.