

**STATE OF NEW YORK
SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
P.O. BOX 7288, CAPITOL STATION
ALBANY, NY 12224**

INSTRUCTIONS FOR RESPONDENT MOVING FOR PERMISSION TO
PROCEED AS A POOR PERSON AND FOR ASSIGNMENT OF COUNSEL
ON A FAMILY COURT APPEAL

- 1) At the top of the attached form is a Notice of Motion. The title of the case should be placed on the left hand side of the form and it should be written as the title appeared on the order or judgment appealed from. This is the caption. Below the caption is a sentence which begins "Please take notice...". The first date to be filled in is the date the attached affidavit in support of the motion was notarized. The second date to be filled in is the return date of the motion, which should be a Monday after service of the motion papers upon all parties as described in paragraph 2 below.
- 2) The motion papers should be served on all parties (if a party is represented by an attorney, service of a copy should be made upon the attorney and if a party is represented by the Office of the Attorney General, service of a copy should be made upon that office), and on the County Attorney of the County in which the papers from the lower court were filed and any Attorney for the Child. If service of the motion papers is done by personal delivery, the motion should be made returnable on a Monday at least eight (8) days after such service. If service of the motion papers is done by mail, the motion should be made returnable on a Monday at least thirteen (13) days after the motion papers are mailed.
- 3) As soon as possible after service of copies of the motion papers, the original motion papers, as well as proof that you have served the motion papers on the other parties, the County Attorney and the Attorney for the Child, should be forwarded to this office. If the motion is being made in connection with an appeal to this Court, you should also attach to the motion papers a copy of the order or judgment being appealed from, the decision, if any, upon which the order or judgment was based, and a copy of the notice of appeal.
- 4) **THERE WILL NOT BE ORAL ARGUMENT ON THE RETURN DATE OF THE MOTION.**

Please fill in the underlined spaces in the following form. Return the original to this Court, forward one copy to each of your adversaries, forward one copy to the County Attorney, one copy to the Attorney for the Child and keep one for your records.

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

IN THE MATTER OF

_____,
Petitioner(s) ,

v

_____,
Respondent(s) .

NOTICE OF
MOTION BY RESPONDENT FOR PERMISSION
TO PROCEED AS A POOR PERSON/
ASSIGNMENT OF COUNSEL ON APPEAL OF AN
ORDER OF FAMILY COURT

Family Court
Docket No./ Index No.: _____

Appellate Division
Case No. _____

PLEASE TAKE NOTICE that, upon the annexed affidavit, sworn to on the _____ day of _____, 20 ____, a motion will be made to this court, on the _____ day of _____, 20 ____, in the City of Albany, New York for an order granting the respondent permission to appeal as a poor person.

Dated: _____

(Signature) _____

(Print Name) _____

(Address) _____

(Your name, address and telephone number)

DIN # (if applicable) _____

(Telephone) _____

PLEASE TAKE NOTICE that, pursuant to section 800.2 (a) of the Rules of this Court, this motion will be submitted on the papers, and the personal appearance of counsel or the parties is neither required nor permitted.

AFFIDAVIT IN SUPPORT OF MOTION

STATE OF NEW YORK

COUNTY OF _____ ss.:

_____, being duly sworn, deposes and says that I make this affidavit in support of my application for poor person status and assignment of counsel.

1. My full name and date of birth is: _____

2. What is the nature of the above entitled proceeding?

3. I am responding to an appeal from a judgment/order of _____ Court, _____ County, which provides as follows:

(Please attach hereto a copy of the order or judgment appealed from, and the decision, if any, upon which the order or judgment is based.)

4. a. An order or judgment has been entered in the Court Clerk's Office on _____, 20 ____.

b. Were you represented by counsel? Yes _____ No _____

Counsel's name and address (if applicable):

c. Was counsel assigned or retained? Assigned ___ Retained ___

5. If you were represented by retained counsel in the court below, state the name and address of the person who paid his/her fee and the amount?

6. What relief are you seeking by this motion?

7. Are you able to pay the costs, fees and expenses necessary to maintain the appeal?

Yes ___ No ___

8. Are you Single: ___ Married: ___ Separated ___ Divorced: ___

If married, what is the name of your spouse? _____

What are the first names and ages of your children? _____

9. What is your occupation? If you are a student, indicate the school which you attend and the name and address of the person who is paying your tuition, room and board.

10. Are you are employed? Yes ___ No ___ If yes, please state your weekly salary and provide the name and address of your employer. Please provide a copy of your most recent pay stub.

11. If married and your spouse is employed, what is his/her weekly gross salary and the name and address of his/her employer?

12. Do you receive support from anyone? Yes ___ No ___ If yes please provide the name, relationship, address and the amount of support provided to you.

13. Do you support anyone? Yes ___ No ___ If yes please provide the name, relationship, address and the amount of support you provide.

14. Do you own real estate either by yourself or with someone else? Yes ___ No ___

If yes please provide the following information:

a. Other owner(s) (if any): _____

b. Location (street address, mailing address; Town, County, State): _____

c. Current value, including improvements: _____

d. Existing mortgages and/or liens (Attach additional sheet if required):

1. Name of bank, mortgagee or lien holder: _____

2. Balance due: _____

15. List the location and amount of any savings or checking accounts held in your name or jointly with others (Attach additional sheet if required):

<u>Location (Bank)</u>	<u>Type</u>	<u>Owners</u>	<u>Balance</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16. List any stocks, bonds, trusts or cash on hand owned by you in which you have any benefit and give the type, location and value of each (Attach additional sheet if required):

17. Please state the year, make model and value of any motor vehicle(s) owned by you and the amount of any existing loan(s): _____

18. Do you own any other assets not listed above? Yes ___ No ___

19. If yes please describe the assets(s) and state the value (Attach additional sheet if required):

20. My monthly income and expenses are as follows:

INCOME:

My salary

My spouse's salary

Other income

TOTAL

EXPENSES:

Rent or mortgage payment

Food

Utilities (heat, telephone, water, electric, cable)

Automobile expenses

Premiums on life or medical insurance policies

Repayment of loans

Name of creditor and amount

Other obligations, including alimony /support

TOTAL

21. Is any other person beneficially interested in any recovery sought herein? Yes ___ No ___

If so, is such person able to pay the costs, fees and expenses of responding to the appeal?

Yes ___ No ___

22. Do you authorize the Court to make any inquiries or investigation concerning the answers given to you in this affidavit? Yes ___ No ___

23. Did someone else complete this form on your behalf? Yes ___ No ___

24. If "yes" to question 23, were the questions and answers read to you and are your answers true? Yes ___ No ___

(Signature) _____

(Print Name) _____

Sworn to before me this _____
day of _____, _____.

Notary Public

AFFIDAVIT OF SERVICE OF MAILING

STATE OF NEW YORK)
COUNTY OF _____) ss.:

_____, being duly sworn, deposes and says:

On the _____ day of _____, 20____, I served a true copy of the annexed notice of motion and supporting affidavit by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addressee(s) as indicated below:

(Insert here the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this Court. If necessary, attach extra pages for additional names and addresses.)

Name & Address	Name & Address

(Signature) _____
(Print Name) _____

Sworn to before me this _____
day of _____, _____.

Notary Public