

## SUPREME COURT

### INSTRUCTIONS AND FORMS FOR A MOTION FOR WAIVER OF COSTS, FEES AND EXPENSES

1. Papers to be filed with the Court (one copy of each)
  - Notice of Motion
  - Affirmation in Support of Motion
  - Copy of Notice of Appeal
  - Copy of Order or Judgment Appealed From
  - Affirmation of Service
2. The motion is returnable on Mondays only.
3. Service: 8 days' notice is required for personal service  
13 days' notice is required is required for service by mail.  
The day of service is not counted.  
For example: If you personally serve your papers on your adversary on May 1<sup>st</sup>, the earliest date you can make your motion returnable is May 9<sup>th</sup>.
4. The Corporation Counsel must be served in all cases.

**SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION, FIRST DEPARTMENT**

x

\_\_\_\_\_  
Plaintiff/Petitioner  
(Circle One)

-against-

\_\_\_\_\_  
Defendant/Respondent  
(Circle One)

x

NOTICE OF MOTION FOR  
WAIVER OF COSTS, FEES AND  
EXPENSES

INDEX NO. \_\_\_\_\_

**PLEASE TAKE NOTICE** that upon the annexed affirmation of \_\_\_\_\_,

dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the undersigned will move this Court at a term thereof to be held at the Appellate Division Courthouse located at 25<sup>th</sup> Street and Madison Avenue, New York, N.Y., 10010, on \_\_\_\_\_, 20\_\_\_\_, at 10:00 a.m., for an order pursuant to CPLR 1101 and 1102 granting appellant a waiver of costs, fees and expenses on appeal and leave to prosecute the appeal on the original record and typewritten briefs, for a free copy of the transcript, for an exemption from the fee required to subpoena said record to this Court, and for such other relief as may be just.

Dated: \_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Name, address and phone no. of  
respondent or attorney

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Your name, address and phone no.

To: CORPORATION COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007

**SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION, FIRST DEPARTMENT**

\_\_\_\_\_x

\_\_\_\_\_  
Plaintiff/Petitioner  
(circle one)

AFFIRMATION IN SUPPORT OF  
MOTION FOR WAIVER OF  
COSTS, FEES AND EXPENSES

-against-

INDEX NO. \_\_\_\_\_

\_\_\_\_\_  
Defendant/Respondent  
(circle one)

\_\_\_\_\_x

I, \_\_\_\_\_, hereby affirm under the penalties of perjury that:

1. I am the appellant in this action and make this affirmation in support of my motion for a waiver of costs, fees and expenses, and permission to prosecute the appeal on the original record and typewritten brief.
2. I reside at \_\_\_\_\_  
\_\_\_\_\_
3. This action was brought by (circle one) petitioner /plaintiff against the respondent/defendant for [specify the nature of the action]:  
\_\_\_\_\_

4. Set forth sufficient facts so that the merits of your contention can be ascertained, and state why you believe you have a good chance of success on appeal:

5. Set forth amount and sources of income; your rent; whether you own bank accounts, stocks, property, a car, etc.

6. I am unable to pay the costs, fees and expenses necessary to prosecute this appeal.
7. Attached hereto is a copy of the Notice of Appeal and a copy of the order/ judgement appealed from.
8. No previous application for the same or similar relief has been made.

WHEREFORE, I respectfully ask that an order of this Court be issued waiving costs, fees and expenses on appeal and granting permission to prosecute the appeal on the original record and typewritten briefs, and for such other and further relief as may be proper and equitable.

I affirm this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand this document may be filed in an action or proceeding in a court of law.

x \_\_\_\_\_ x  
(Signature)

**AFFIRMATION OF SERVICE BY MAIL**

I, \_\_\_\_\_, affirm under the penalties of perjury that, I am not a party to the action, I am over 18 years of age and I reside at:

\_\_\_\_\_.

On \_\_\_\_\_, 20\_\_\_\_\_, I served the within Notice of Motion and affirmation upon:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CORPORATION COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007

(Opposing Party)

by depositing true copies of same enclosed in postpaid properly addressed wrappers in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

I affirm this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

\_\_\_\_\_  
(Signature)