

NEW YORK SUPREME COURT  
APPELLATE DIVISION, THIRD DEPARTMENT  
BOX 7288, CAPITOL STATION  
ALBANY, NY 12224

INSTRUCTIONS FOR MOVING FOR PERMISSION TO PROCEED  
ON APPEAL AS A POOR PERSON

---

1) Pursuant to CPLR 1101, any party may make a motion to the court to which an appeal has been taken for permission to proceed as a poor person. Attached is a form which may be used to make a motion to this court for such relief.

2) At the top of the 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. Below the caption is a sentence which begins "Please take notice...". The first date to be filled in that sentence is the date the affidavit in support of the motion, which is also a part of the form, is notarized. The second date to be filled in that sentence is the return date of the motion, which is the date the motion will be considered by the court. The motion may be made returnable on any Monday.

3) The motion papers should be served on all parties (if a party is represented by an attorney, service should be made on the attorney) and on the County Attorney of the County in which the papers from the lower court were filed. 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.

4) 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 and the County Attorney, should be forwarded to this office. 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.

5) ORAL ARGUMENT ON THE RETURN DATE OF THE MOTION IS NOT ALLOWED. The motion will be submitted to the court on the return date, and you will be notified of the decision in about 14 days.

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, and keep one for your records.

STATE OF NEW YORK SUPREME COURT  
APPELLATE DIVISION THIRD DEPARTMENT

\_\_\_\_\_  
\_\_\_\_\_,  
\_\_\_\_\_,  
-vs-  
\_\_\_\_\_,  
\_\_\_\_\_.  
\_\_\_\_\_

Notice of Motion for  
Permission to Proceed as  
Poor Person on Appeal

Please take notice that, upon the annexed affidavit, sworn to on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a motion will be made to this court, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the City of Albany, New York, for an order granting the appellant permission to appeal as a poor person.

Dated: \_\_\_\_\_ (Your signature)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Your name, address and telephone number)

1. What is your full name?  
\_\_\_\_\_
2. What is the nature of the above-entitled action?  
\_\_\_\_\_
3. What is the order or judgment you have appealed from to this court? (Please attach hereto a copy of the order or judgment appealed from, the decision, if any, upon which the order or judgment is based, and a copy of your notice of appeal.  
\_\_\_\_\_  
\_\_\_\_\_
4. What relief are you seeking by this motion?

---

---

---

5. What facts are present to support your contention that there is merit to your appeal? (Attach additional documentation, if necessary.)

---

---

---

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

7. Are you single ( ) married ( ) separated ( ) divorced?

8. 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.

---

---

---

---

9. If you are employed, what is your gross weekly salary and the name and address of your employer?

---

---

---

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

---

---

---

11. If not living with your spouse, divorced spouse or children and you contribute weekly to their support, what is your weekly support payment? \_\_\_\_\_

12. If not living with your spouse or divorced spouse and you receive support from him or her for yourself or your children, what is the weekly amount of support you receive?

---

13. (a) Do you or your spouse have any bank accounts in your

individual names or jointly with each other or any other person? \_\_\_\_\_

(b) Do you have any insurance policies, stocks, bonds, trust accounts or any other investments in your name, or jointly in your name and any other person?

14. If you or your spouse own automobiles, what is the year and model, monthly payments, if financed, to whom the payments are made and the number of remaining payments?

15. Do you own your home or do you rent? \_\_\_\_\_

16. What is the approximate market value, present mortgage balance, name of bank or other financing institution and monthly payments on any home owned by you in your own name, your spouse's name or jointly with your spouse or any other person?

17. Do you have any other assets not covered by the preceding questions in this statement?

18. My gross monthly income and expenses are as follows:

INCOME:

My salary \_\_\_\_\_  
My spouse's earnings \_\_\_\_\_  
Other income of mine or any  
members of my immediate family \_\_\_\_\_

**TOTAL** \_\_\_\_\_

EXPENSES:

Rent or mortgage payment	_____
Food	_____
Utilities (heat, telephone, water, electric)	_____
Automobile expenses	_____
Premiums on life or medical insurance policies	_____
Repayment of loans	_____
Name of creditor and amount	_____
_____	_____
_____	_____
_____	_____
<b>TOTAL</b>	_____

19. Is any other person beneficially interested in any recovery sought herein? \_\_\_\_\_ If so, is such person able to pay the costs, fees and expenses of maintaining the appeal?

\_\_\_\_\_

20. Do you authorize the court to make any inquiries or investigation concerning the answers given by you in this affidavit?

\_\_\_\_\_

21. If the answers in this questionnaire are not in your handwriting, were the questions and answers read to you and are your answers true?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature (Print name below signature)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Revised 12/17/03)

