

**INSTRUCTIONS AND APPLICATION FOR POOR PERSON
RELIEF AND ASSIGNMENT OF COUNSEL IN A CRIMINAL
MATTER**

1. The following are forms which you may use to properly make an application for poor person relief and assignment of counsel in a criminal matter.
2. If you are under 18 years of age or if you are under 21 years of age and living with your parents or guardian, they must fill out the financial part of the questionnaire/affidavit (all affidavits must be sworn to before a notary public).
3. Complete the enclosed questionnaire/affidavit and return it to the court as quickly as possible. Remember, your appeal is subject to dismissal after 120 days from the date of sentence.
4. You must have a copy of this motion served upon the District Attorney of the county of your conviction.
5. The enclosed affidavit of service must then be completed and sworn to before a notary public. Upon receipt, the clerk's office will notify the District Attorney of their right to respond to your application. If the District Attorney does so, you will be provided with a copy of such response.
6. Shortly thereafter the court will issue a decision which will be mailed to both parties.
7. In the event that you fail to:
 - (a) properly complete this form or;
 - (b) answer all questions fully or;
 - (c) return the application timely;the application will be deemed abandoned and will not be processed.
8. If you have any questions, call the Clerk's office at (347) 401-9580.

YOUR AFFIDAVIT MUST BE SWORN TO BEFORE A NOTARY PUBLIC.

**DO NOT USE THIS FORM
SAMPLE FOR INSTRUCTIONS ONLY**

AFFIDAVIT OF SERVICE BY MAIL

THIS FORM IS TO BE FILLED OUT BY THE PERSON WHO MAILS THE PAPERS TO YOUR OPPONENT OR YOUR OPPONENT'S ATTORNEY IF THEY ARE REPRESENTED. IT MUST BE SWORN TO BEFORE A NOTARY PUBLIC.

STATE OF NEW YORK, _____ *COUNTY WHERE SWORN TO* _____ s.s.:

_____ *NAME OF PERSON WHO SERVES PAPERS* _____, being duly sworn, deposes and says, that deponent is NOT a party to the action, is over 18 years of age and resides at _____
_____ *ADDRESS OF PERSON WHO SERVES PAPERS* _____.

That on the DATE PAPERS day of ARE SERVED, 2____ deponent served the within APPLICATION FOR POOR PERSON RELIEF & ASSIGNMENT OF COUNSEL upon opponent(s) NAME OF OPPONENT(S) at _____ ADDRESS OF OPPONENT(S) _____

(or if the opponent[s] is [are] represented by attorney[s])

upon NAME OF ATTORNEY(S) attorney(s) for opponent(s) at _____ ADDRESS OF ATTORNEY(S) _____

the address designated by said opponent(s) or said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in -- a post office -- official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

(SIGNATURE)

(To be completed by Notary Public at the time affidavit is signed)

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

PRO SE GLOSSARY OF TERMS

APPELLANT:

The party that files a notice of appeal.

RESPONDENT:

The party who did not file the notice of appeal.

TRIAL COURT/LOWER COURT/COURT OF ORIGINAL JURISDICTION:

The court in which the legal action began is referred to as the trial court. These courts include the Civil and Criminal Courts of the City of New York in Kings, Queens and Richmond counties; the Justice, Village, City, Town, and District Courts (and only civil appeals from County Courts) in Dutchess, Nassau, Putnam, Orange, Rockland, Suffolk, and Westchester counties. Appeals from these courts are taken to the Appellate Term, 2nd Department.

NOTICE OF APPEAL:

This is the form used by someone to begin the appeal process. This form, after it is filled out, is served upon the other party(ies) in the action and then filed in the trial court.

MOTION:

A formal request to the court for some type of relief (e.g. to stay all proceedings, to dismiss the appeal, to vacate the dismissal, etc.).

NOTICE OF MOTION:

This is the form that identifies who is making the motion, when the motion is returnable (to be submitted to the court), and, what relief the movant is seeking.

MOVANT:

The person who is making the motion.

RETURN DATE:

The date the motion will be submitted to the court.

AFFIDAVIT IN SUPPORT OF THE MOTION:

This is the written explanation, **sworn** to by the movant, setting forth why the court should grant the relief requested.

Note: There are two types of affidavits generally associated with motions, an affidavit in support of the motion and an affidavit of service. An affidavit is a statement sworn to before a notary public. An affidavit of service is a different type of affidavit and is explained in "Proof of Service".

SERVICE:

Service or serving papers means causing some type of papers to be delivered to someone. Service must be upon the attorney representing your opponent (if he or she has an attorney) or upon the party, if the party does not have an attorney.

PROOF OF SERVICE:

The legal requirement for service is that unless otherwise specified by the court, all service must be by third party service (by someone who is not a party to the action, they can be a relative or a friend). The third party must serve the papers upon your opponent. Service can either be by personal service, the third party actually hands the papers to your opponent or their attorney, or service can be by mail, the third party mails the papers to your opponent. Under either method, the third party must prove that the service was done. Proof is provided by submitting an affidavit of service, or by having the party upon whom the papers are served, sign and date a copy of the papers indicating that he or she has received the papers.