

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

**GUIDE TO SERVICE, FILING, AND FEES FOR ORDERS TO
SHOW CAUSE SIGNED IN CHAMBERS**

Litigants and their counsel often present orders to show cause for signature to Justices of the Appellate Division, Second Department, at their chambers outside the Appellate Division Courthouse in Brooklyn. The following procedures are applicable to motions and special proceedings initiated by an order to show cause signed in chambers.

CIVIL MOTIONS

Conform Accurate Copies

After an order to show cause presented in chambers has been signed, the original bearing the Justice's signature in ink will be returned to the movant. Sufficient complete copies of the original order to show cause and the supporting motion papers must be made to provide one for each person or entity that the order to show cause directs be served, and to provide a copy for the movant's file. The original order to show cause may be photocopied or previously prepared copies may be conformed to the original for this purpose.

Make Service

The copies of the papers must then be served in accordance with the terms of the order to show cause. An affidavit of service must be prepared and executed.

Tender the Papers for Filing with the Filing Fee

The movant must mail or deliver the original order to show cause (the one that bears the Justice's signature in ink), the supporting motion papers, and the affidavit of service for filing to:

General Clerk's Office – Motion Support
Appellate Division, Second Department
45 Monroe Place
Brooklyn, NY 11201

Filing in the General Clerk's Office must be accomplished no later than 9:30 A.M. on the day preceding the return date.

Unless the movant is exempt from the payment of the fees of the clerk (*see e.g.* CPLR 1102[d], 8017), the motion papers must be accompanied by payment of the \$45 filing fee required by CPLR 8022(b). If the papers are mailed or sent to the General Clerk's Office by delivery service, the court suggests that payment of the fee be made by check or money order made payable to "Clerk of the Court." If the correct fee is not tendered, the filing will be rejected and the motion will not be heard.

SPECIAL PROCEEDINGS

An order to show cause is often used in lieu of a notice of petition to bring on a special proceeding. When such an order to show cause is signed in a Justice's chambers, the procedure to be followed differs from the procedure for motions.

Conform Accurate Copies

After an order to show cause made in connection with the initiation of a special proceeding has been signed in chambers, the original bearing the Justice's ink signature will be returned to the movant. Sufficient complete copies of the original order to show cause, the petition, and other supporting papers must be made to provide one for each person or entity that the order to show cause directs be served, and to provide a copy for the petitioner's file. The original order to show cause may be photocopied or previously prepared copies may be conformed to the original for this purpose.

Filing First, Service Thereafter

An order to show cause and supporting papers initiating a special proceeding must be filed in the General Clerk's Office *before* it is served (CPLR 304). The filing must be accompanied by payment of the \$315 filing fee required by CPLR 8022(b) and a completed Request for Appellate Division Intervention form (22 NYCRR 670.3[e]). The petitioner must mail or deliver the original order to show cause, the petition, and any other supporting papers, the fee, and the Request for Appellate Division Intervention to:

General Clerk's Office
Appellate Division, Second Department
45 Monroe Place
Brooklyn, NY 11201

If the papers are mailed or sent to the General Clerk's Office by delivery service, the court suggests that payment of the fee be made by check or money order made payable to "Clerk of the Court."

After filing is complete, an Appellate Division Docket Number will be issued to the proceeding. Thereafter, conformed copies of the order to show cause, petition, and any other supporting papers, bearing the docket number issued by the court, must be served in accordance with CPLR 306-b.

FURTHER STEPS

All motions and special proceedings are returnable at the Appellate Division Courthouse in Brooklyn. Do *not* mail or deliver answering or reply papers to the chambers of the Justice who signed the order to show cause or to his or her attention at the courthouse. Mail or deliver answering and reply papers to the General Clerk's Office for filing.

No appearance is permitted on the return date of motions. All motions are submitted without oral argument (22 NYCRR 670.5[b]). The rule is the same for special proceedings, except habeas corpus proceedings and those specifically enumerated in § 670.18 of the court's rules (22 NYCRR 670.18).