

# HOW TO TRY OR DEFEND A CIVIL CASE WHEN YOU DON'T HAVE A LAWYER



**Civil Court of the City of New York  
Fern A. Fisher, Administrative Judge**

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## INTRODUCTION

This Guide is meant to help someone who is not represented by a lawyer understand the general rules and procedures of a court case in the Civil Court of the City of New York. It is not meant to be a complete guide on every aspect of the law. It does not discuss all the legal issues that may come up in any particular matter. It makes no recommendation about whether or not you should have an attorney represent you. The purpose of the Guide is to give you general information to make it easier for you to present your case to the Court.<sup>1</sup>



### ☛ WHAT IS A *PRO SE* LITIGANT?

A *pro se* litigant is a party to a lawsuit who prosecutes or defends that lawsuit without the assistance of a lawyer. A person does not have to be represented by a lawyer in New York State Courts. A corporation, however, is required by law to be represented by an attorney in court.<sup>2</sup>

People who appear without an attorney are bound by the same rules and law and evidence as those who are represented by an attorney.

### ☛ THE CIVIL COURT OF THE CITY OF NEW YORK AND THE PERSONAL APPEARANCE PART

The Civil Court of the City of New York<sup>3</sup> (“Civil Court”) is a trial court within the City of New York. Each of the five boroughs has a Civil Court. The types of cases handled by the Court generally include: money up to \$25,000.00; recovery of personal possessions that are worth up to \$25,000.00; and relief related to real property worth up to \$25,000.00. All Civil Parts are referred to by numbers.

Each courthouse has a separate calendar or part of cases in which at least one of the

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<sup>1</sup> Information about the procedure and trial of a Small Claims Case can be found in a booklet entitled “A Guide to Small Claims Court.” The Small Claims part of Civil Court handles cases for \$5,000.00 or less. The Small Claims Guide is available in the Small Claims Clerk’s office. Information about trying a Landlord-Tenant case can be found in a pamphlet entitled: How to Prepare for a Landlord-Tenant Trial” which is available in the Landlord-Tenant Clerk’s office. Both booklets are also available on-line at: <http://nycourts.gov/courts/nyc/civil/videos.shtml>.

<sup>2</sup>Corporations do not need to be represented by a lawyer in Small Claims Part of the Civil Court.

<sup>3</sup>Although its formal title is the Civil Court of the City of New York, it will be referred to simply as the Court or the Civil Court throughout the rest of this booklet.

parties does not have an attorney. These parts are called **Personal Appearance Parts**. These Parts are normally titled, “Part 11.”

In addition, each courthouse has clerks familiar with personal appearance cases. These Clerks can assist you in the procedures for bringing or defending a lawsuit. However, **neither a clerk nor a Judge can give you legal advice**. They cannot tell you what decisions to make about whom or how to sue or how best to proceed with your case.

## STARTING OR ANSWERING A LAWSUIT

### ☛ WHO CAN SUE OR BE SUED IN CIVIL COURT?

Any New York City resident, including New York City corporations, can sue or be sued in Civil Court. As noted earlier, a corporation must be represented by an attorney.

Generally, non-residents of the City of New York, including corporations, can sue or be sued in Civil Court if they:

(a) transact business in the City of New York or contract anywhere to supply goods and services in the City of New York.

(b) commit a tort (a civil wrong) in the City of New York (with the exception of defamation); or

(c) own, use or possess real property situated within the City of New York.



### ☛ HOW DO I START A CIVIL ACTION WITHOUT AN ATTORNEY?



You can start an action in Civil Court without an attorney by going to the clerk’s office and filling out a summons and complaint. The clerk can help you fill out the papers based on the information you provide. However, **a clerk cannot give legal advice**. The clerk cannot tell you who to sue or what amount to sue for or answer any questions about the legal aspects of your case.

The party bringing the lawsuit is called the **plaintiff**. The party against whom the lawsuit is brought is called the **defendant**. There is a fee to bring a lawsuit in Civil Court. However if you cannot afford to pay the fee you can ask the Court to excuse you from having to pay it. (See **POOR PERSONS RELIEF**, p. 4)

A civil action is started by service of a **summons**. A summons is a notice to a defendant telling the defendant a lawsuit has been started against the defendant and advising the defendant to answer the lawsuit. A **complaint** is a written document that tells a defendant the nature of the

claim made against the defendant and the relief requested.

You will be required to make sure that the summons and complaint are delivered to the defendant in a specific manner as required by law. The delivery of papers is called **service of process**, or serving papers. After service is completed, the person who served the papers must file a sworn and notarized statement with the clerk's office. This sworn statement is called an **affidavit of service**. It states how and when the summons and complaint were given to the defendant and it must be signed by the person who served them.

If the defendant answers the summons and complaint (see **HOW DO I ANSWER A SUMMONS?** below), the Court will assign the parties a Court date. Sometimes, the defendant may make a motion instead of an answer. The motion will provide the time and place to come to Court for you to respond to it. (See **MOTIONS**, p.8). If no answer or motion is made, then the plaintiff may ask that the case be assigned to a Judge for relief on default (see, **WHAT HAPPENS IF A PARTY FAILS TO COME TO COURT**, p.5).

## ☛ **HOW DO I ANSWER A SUMMONS?**

If you receive a summons and complaint in which you are named as a defendant, you must respond to it. You must respond to the summons and complaint even if you believe you were not served with the papers in the manner the law requires.

The response to a summons and complaint is called an **answer**. You can put in an answer by going to the clerk's office in the Court where the lawsuit was started. The answer can be a general denial. It can also contain any defenses you have to the claim. You may also assert any claims you may have against the plaintiff. (See **WHAT IS A COUNTERCLAIM**, p. 4). If you believe the summons and complaint were not served on you in the proper fashion, you can put that defense in your answer. You then must make a motion for a hearing on the issue of service of the summons within sixty(60) days of the date of your answer. Otherwise the Court will not consider the issue of service of the summons. You must request an adjournment of the case for the time required to make the motion. (See **MOTIONS**, p. 8).



The answer should be made in writing. A copy must be served on the plaintiff and the original should be filed with the General Clerk's office along with an affidavit of service. The clerk's office and the Civil Court's website have information on the procedure for filling out and serving and filing an answer. Keep a copy of the answer and affidavit of service for your records.

A defendant has twenty (20) days to answer the summons and complaint if they are delivered to the defendant personally. If the papers are not delivered personally, a defendant has thirty (30) days to answer the summons and complaint.

A defendant who does not put in an answer within the required time can ask the Court for

more time to do so. The request for more time must be in the form of a written motion, with a copy sent to the other party. (See **MOTIONS**, p. 8). If the defendant fails to answer, the plaintiff can apply for a default judgment. (See **WHAT HAPPENS IF A PARTY FAILS TO COME TO COURT?** p. 5).

#### ☛ **WHAT IS A COUNTERCLAIM?**

Sometimes a defendant may also have a claim against a plaintiff. This is called a counterclaim. The counterclaim must be made in writing just like the complaint and the answer. Generally, a plaintiff is not required to reply in writing to a counterclaim. It is assumed that the allegations are denied.

#### ☛ **CAN I GET A JURY TRIAL?**

Either party to a civil action has a right to have any case seeking a money award decided by a jury. You must make a request to the Court for a jury trial in a timely fashion or the right is lost. A request for a jury is called a **jury demand**. The demand must be made in writing and delivered to all other parties to the action. The request is then filed with the Court. **There is a fee for filing a jury demand**. A jury trial in a civil case is decided by six jurors.

Generally, jury trials are not allowed in actions seeking something other than money. They also may not be allowed where the parties have a written agreement giving up the right to a jury trial. The Clerk of the Court can provide you with information about the procedure for obtaining a jury trial and paying the fee or you can visit the Civil Court's website for more information. If you believe you cannot afford the jury fee, see **POOR PERSONS RELIEF**, below.

#### ☛ **POOR PERSONS RELIEF**

You have the right to ask the Court to waive payment of Court fees if you feel you do not have the financial ability to pay them. This is called Poor Persons Relief. The request for Poor Persons Relief must be made in writing in the form of a written motion. (See **MOTIONS**, p. 9). You must file an affidavit with the motion stating the amount and sources of your income and listing your property with its value. Your affidavit also must state that you are unable to pay the costs, fees and expenses necessary to prosecute, defend or appeal the action and show sufficient facts as to the merit of your claims. The Clerk's office can provide forms and information about the procedure for obtaining Poor Persons Relief or you can visit the Civil Court's website.

## COURT DATES, ADJOURNMENT AND DEFAULTS

### COURT DATES AND ADJOURNMENTS

 **You must come to Court on all Court dates and you must be on time.** When you are notified of a Court date you must appear at the time, date and place indicated. **An Adjournment** is a postponement of a case to another date. Only a Judge can grant an adjournment. If a party wants to postpone a case, he or she should try to notify the other side in advance of the Court date that he or she plans to ask the Judge for an adjournment. **A case cannot be adjourned by a telephone call to the Court.** You must come to Court on the scheduled date to explain to the Judge why you are not ready to proceed. If you cannot appear because of a serious illness, emergency or other good reason, you should send someone on your behalf. If the Court does not accept your or your representative's excuse, the request to postpone the case will be denied and the case will proceed forward. Sometimes a case will be adjourned and marked "**final.**" Generally, when a case is marked "**final,**" it means the Judge will not allow any further adjournments and it will be tried on the next Court date.

### WHAT HAPPENS IF A PARTY FAILS TO COME TO COURT?

If you do not come to Court on a scheduled date or are late and you are the plaintiff, your case may be dismissed. If you do not come to Court or are late and you are the defendant, a **default judgment** may be entered against you. A default judgment is an award in one side's favor without the other side being heard.

### WHAT CAN I DO IF MY CASE WAS DISMISSED OR A DEFAULT JUDGMENT WAS ENTERED AGAINST ME BECAUSE I MISSED A COURT DATE?

The Court has the power to restore a dismissed case to the trial calendar. It also has the power to vacate (set aside) a default judgment. Generally, dismissals or judgments will be set aside only if the Judge finds a party had a valid excuse for not coming to Court on a scheduled date and also has a meritorious claim or defense. You must make a motion to have a case restored or a judgment vacated. To make a motion, see **MOTIONS**, on p.8.

## PRE-TRIAL DISCOVERY

One party to a lawsuit has the right to find out information from the other side about the other party's claims before the actual trial takes place. This process is called **discovery** or disclosure. The purpose of discovery is to allow a party to prepare for trial. Discovery requires the parties to disclose their evidence to each other in advance of the trial if asked to do so. However, as with a trial, a party has the right to object to certain discovery. (To object, see

## HOW TO OBJECT TO DISCOVERY? p. 8).

A party has the right to discover all evidence “material and necessary” in the prosecution or defense of an action. This generally means that if asked in the ways discussed below, one side must provide to the other all evidence relevant to the action and all information which might reasonably lead to relevant evidence.

Discovery includes oral questions (called depositions or examination before trial), discovery and inspection of documents or property and written questions (called interrogatories). The following is a discussion of the different discovery methods.

### ☛ WHAT IS A DEMAND FOR BILL OR PARTICULARS?

A demand for a Bill of Particulars is a list of written questions from one party to another asking for details (i.e., particulars) about a claim or defense. Although a Demand for a Bill of Particulars technically is not discovery, it can be used to get information about a claim or defense. To make a Demand for A Bill of Particulars write the name of your case and its index number on top of a page and make a list of questions as to the items about which you want more details. Each question should be separately numbered. Mail a copy of the Demand to the other side, preferably by regular first class mail with a certificate of mailing. The certificate of mailing can be used to prove the date you mailed the Demand. File the original Demand for a Bill of Particulars with the Court, along with the affidavit of service. Keep a copy of the Demand for a Bill of Particulars and affidavit of service for your records.

### ☛ HOW TO RESPOND TO A DEMAND FOR A BILL OF PARTICULARS?

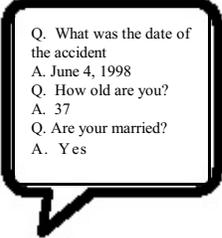
Generally, you have 30 days from the day you receive a Demand for a Bill of Particulars to respond to it. You must either answer the questions in the Demand or object to them. Your answers to the questions are called a Bill of Particulars. To do a Bill of Particulars put the name and index number of the case on the top of a page. Answer each question, making sure the number of your answer matches the number of the question. Sign your name at the bottom of the Bill of Particulars in front of a notary. Mail the notarized Bill of Particulars to the other side, preferably by regular first class mail with certificate of mailing. The certificate of mailing can be used to prove the date you mailed your answers. File the original Bill of Particulars with the Court, along with an affidavit of service. Keep a copy of the Bill of Particulars and the affidavit of service for your records. You have a right to object to a demand for a Bill of Particulars if you feel the questions ask for more information than is necessary, or the questions are not specific enough, or on any other appropriate ground. To object, see **MOTIONS**, p. 8.



## ☛ WHAT IS A DEPOSITION?

A deposition is sworn testimony taken by one party of another party before the actual trial takes place. A deposition is also called an examination before trial or **EBT**. The person being deposed is asked questions under oath while a court reporter is present. The court reporter records the questions and answers and later transcribes them into a written document. A deposition is usually held in the office of the opposing party's lawyer or at the courthouse. Under certain circumstances, the deposition testimony can be used at the trial to help prove a claim and/or to discredit a witness.

A party must serve a "Notice of Deposition" on the other side in order to take a deposition. The notice must state the name of the case, its index number and when and where the deposition will take place. You have a right to object to a Notice of Deposition. To do so, see **HOW TO OBJECT TO DISCOVERY**, p. 8.



Q. What was the date of the accident  
A. June 4, 1998  
Q. How old are you?  
A. 37  
Q. Are you married?  
A. Yes

## ☛ WHAT ARE INTERROGATORIES?

Interrogatories are written questions. These questions are numbered and sent to the opposing party to answer in writing. The party receiving the interrogatories must answer the questions in writing under oath. The answers should be numbered to correspond to the question. Remember to put the name and index number of the case on top and keep a copy for yourself. The answers must be sent to the other side within 20 days of receipt of the request if it came by mail. Be sure to keep a copy for yourself. You have the right to object to Interrogatories. To do so, see **HOW TO OBJECT TO DISCOVERY**, p. 8.



## ☛ WHAT IS A DEMAND FOR DISCOVERY AND INSPECTION?

A Demand for Discovery and Inspection is a request to a party to produce anything relevant to the case, such as documents, photographs or relevant objects so that it can be inspected, tested or copied. The Demand must state the name of the case, the index number and the item(s) the party wishes to inspect, test or copy. The party receiving such a request has 20 days to respond if the Demand came by mail. You have a right to object to a Demand for Discovery and Inspection. To do so, see **HOW TO OBJECT TO DISCOVERY**, p.8.

## ☛ WHAT HAPPENS IF A PARTY DOES NOT RESPOND TO A DEMAND FOR DISCOVERY?

If a party does not respond to a demand for discovery, the other side can ask the Court to issue an order compelling the party to comply with the request for discovery. The Court has the power to make a party answer a discovery request and can take stronger action if necessary. For example, the Court can dismiss a case or strike an answer if a party fails to comply with the

Court's order regarding discovery. The request to the Court must be in the form of a motion or Order to Show Cause. For information on how to file a motion or Order to Show Cause to compel discovery, see **MOTIONS**, below.

## ☛ HOW TO OBJECT TO DISCOVERY



You have the right to object to a Demand for A Bill of Particulars or demand for discovery if you believe the request calls for irrelevant information, is not clear or asks for more information than is necessary. Your objection must be in writing. You may make your objection in the form of a motion or Order to Show Cause which is accompanied by your affidavit stating the reasons you believe the request for discovery is improper. You must make your objection within the same time frame as you have to respond to the request. For information on how to file a motion or Order to Show Cause objecting to a discovery request, see **MOTIONS**, below.

## MOTIONS

A **motion** is a written request to the Court to issue an order for specified relief. An **Order to Show Cause** is a speeded up form of a motion. Motion papers notify the other side of the nature of the request and state the date, time and location where the request will be made. Motions and Orders to Show Cause are heard in the Motion Part of the Court.

A motion or Order to Show Cause must be accompanied by an **affidavit**. An affidavit is a sworn statement made before a notary public. The affidavit should state the reason you are making your request, the relevant facts about your case and a statement as to whether or not you have previously made the same request. You can learn more by visiting the Civil Court's website or asking the Clerk for information about the procedure for obtaining an Order to Show Cause. If your order to show cause relates to a discovery request (e.g., to compel or object to discovery), you should attach a copy of the request and an affidavit explaining to the Court your reasons for asking or opposing the discovery. In general, you must answer the questions to which you do not object.

The Clerk's office will tell you the date your order to show cause will be heard by the Judge. The clerk has information on how to serve the order to show cause on the other party. After the papers are served, you will have to file an affidavit of service with the Court stating upon whom the papers were served, and how and when they were served. Before the Court date, the other side may send you papers that give you that party's version of the dispute. You may answer those papers by preparing a "Reply" which must be in affidavit form. **You must come to Court on the day stated in the order to show cause to tell the Judge your reason for the request.**

## EVIDENCE



Because a trial is decided based on the evidence presented, **you must arrange to have all evidence necessary to prove your claim or your defense present in Court on the trial date.**

Sworn testimony, including your own, is evidence. Any witness whose testimony is relevant to your case may testify in person before the Court. This can be someone who witnessed the events or someone whose special knowledge and experience makes him or her an expert on the cost of the services or repairs that were provided or may be required. Medical or dental malpractice cases require the testimony of a medical professional as an expert witness. An expert witness may charge you a fee for coming to Court to testify. **A signed and notarized statement cannot be used in place of live testimony and is not admissible in evidence.**

Evidence can also include photographs, written agreements, leases, invoices, bills of sale, delivery receipts, business or medical records or any other documents relevant to your case. Original documents may be required, if available. All public documents must be certified by the agency producing such documents. A **certification** is a statement by a public agency that the documents are true copies of an agency's records. Someone at the agency should be able to tell you how to get the records certified.



If you are unable to get a witness to appear voluntarily, you can ask the Court to issue a **subpoena**. A subpoena is a legal document that commands the person named in it to appear in Court. You can ask the Court for a **“subpoena duces tecum.”** A “subpoena duces tecum” is a legal document that directs someone, including a City agency, to produce in Court a written document or record you need. For example, police and fire department, Buildings Department, hospital, telephone or Con Edison records can be subpoenaed. An expert witness cannot be compelled to testify by subpoena. You can, however, pay an expert to come to Court to testify.

The clerk's office has subpoena forms. It also has information on how to serve a subpoena and whether a fee must be paid to the subpoenaed party and, if so, how much. After you have filled out the forms, the clerk will sign or present the subpoena to the Judge for signature. You must arrange for service of the subpoena and the payment of a witness fee and, where appropriate, travel expenses for the person subpoenaed. Any person, including a friend or relative, who is **18** years of age or older and who is not a party to the action can serve the subpoena. A party to the action can serve a subpoena only if the Judge gives permission, in advance, for such service.

For claims of \$2,000.00 or less, an itemized bill or invoice for parts and labor may be used as evidence. The bill or invoice must be receipted or marked “paid.” The person or entity who made the repairs or provided the services must also provide a sworn statement that says no part of

the payment it received will be refunded to you, and that the amounts it charged are the usual and customary rates for such services and repairs. A copy of the receipted bill and statement must be sent to the other party(ies) to the lawsuit at least ten (10) days before the trial. For claims above \$2,000.00, you must have an expert witness such as a painter, mechanic, plumber, or electrician testify at the trial as to the cost of or necessity for repairs being claimed.

## THE TRIAL

*In New York County when a lawsuit seeks damages of \$10,000.00 or less, the parties must go to mandatory arbitration before a trial is held (see **MANDATORY ARBITRATION**, p. 12). Currently other counties do not require arbitration before a trial.*



### ☛ JURY TRIALS

If the plaintiff or defendant has properly filed a jury demand and paid the jury demand fee, the case will be tried before a jury. (See **CAN I GET A JURY TRIAL**, p. 4). A jury trial begins with jury selection. A panel of prospective jurors is called for “voir dire,” where the Court will examine the jurors as to their qualifications. A party is entitled to challenge a juror for cause when a prospective juror is not qualified, such as, is not impartial, is related to one of the parties, or will not follow the law. A party is also entitled to a limited number of “peremptory challenges,” which allow the party to dismiss the juror without stating any reason. Six jurors, plus alternates, must be selected to hear the case. After each side presents testimony and evidence (see **HOW IS A TRIAL CONDUCTED**, below), the Judge will deliver a charge to the jury, setting forth the jury’s responsibility to decide the facts in light of the applicable rules of law.

### ☛ HOW IS A TRIAL CONDUCTED?



The plaintiff’s case is presented first. After being sworn as a witness, the plaintiff will tell his or her version of the incident. All relevant papers or other evidence should be presented at this time to be offered in evidence. When the plaintiff has finished testifying, the defendant has the right to ask questions. This is called **cross-examination**. Sometimes, the Judge may ask questions to clarify matters. Other witnesses may be presented in support of the plaintiff’s claims, and they, too, can be cross-examined by the defendant and questioned by the Judge.

The defendant may then be sworn and tell his or her side of the story and offer evidence. All papers or other evidence should be presented at this time to be offered in evidence. When the defendant has finished testifying, the plaintiff has the right to cross-examine the defendant. Sometimes, a Judge may ask questions to clarify matters. Other witnesses may be presented in support of the defendant’s claims, and they, too, can be cross-examined by the plaintiff and questioned by the Judge. After the presentation of the defendant’s case, the plaintiff has the right

to ask the Judge for an opportunity to present evidence to rebut the defendant's case.

If you are suing a business, be certain to ask the defendant's witness for the full and correct legal name of the business and the name of the person who owns the business. If the name of the business is different from the name you wrote in your summons, ask the Judge to make any correction in the name on your summons or ask the Judge to conform the pleading to the proof presented at the trial.

## ☛ OBJECTIONS

There is a body of law called "rules of evidence." The purpose of these rules is to make sure that evidence is relevant, reliable and authentic. Because of these rules certain testimony or documents may not be legally admissible. For example, an affidavit is not admissible in evidence because its admission would deprive the other side of the right to cross-examine the person who wrote it.

Parties to a lawsuit have a right to object to the introduction of evidence or the way a question is being asked or answered. The proper way to object is to say "**objection.**" The Judge may then ask what the basis for the objection is. If the Judge agrees with the objection, the Judge will say "**sustained**" and the evidence will not be admitted. If the Judge disagrees with the objection, the Judge will say "**overruled**" and the evidence will be admitted.

## ☛ CONDUCT IN COURT

**Parties and attorneys to a lawsuit are expected to be courteous to each other and to the Court.** Parties should speak only to the Judge and not to each other when making legal arguments. Do not get into an argument with the other side. If you disagree with what the other side is saying, tell the Judge, not the other side. Do not interrupt someone who is speaking unless you have an objection. Wait until the other side or the Judge is finished speaking and then say what you want to say.



A Judge is not allowed to have *ex parte* communications about a pending case. An *ex parte* communication is a conversation or writing between a Judge and only one party to a lawsuit when the other side was not notified in advance that the communication would occur. Therefore, **a party should not try to contact a Judge without the other side being given a chance to be present at the discussion.**

## ☛ SETTLEMENTS



It is sometimes better to settle a case than to go to trial. A settlement is a voluntary, binding agreement that resolves the differences between the parties to a lawsuit. The parties can settle the case at any time. The agreement is put in writing in

a document that is often called a **stipulation**. In a settlement you can help determine the outcome of a case. In a trial, only a Judge or a jury decides its outcome. However, no one can force you to settle a case. Also, no case should be settled in the courthouse unless and until the settlement has been reviewed by a Judge and you understand and agree to the terms of the settlement.

## ☛ TRIAL DECISION

When the trial is completed, you may have to wait for the Judge to write a decision. You may contact the Court to see if a trial decision has been issued. If your case was heard by a jury, the jury, not the Judge, will make the decision. A judgment will be entered based on the verdict reached by the jury. If the jury is unable to reach a verdict, the Judge will have to declare a mistrial and the case will have to be tried again before a new jury.

If there is a decision and you are the winning party, you will want to come to Court to have the clerk prepare and enter a judgment. (See **ENTERING JUDGMENTS**, p. 13). If you are the losing party, you may want to appeal. (See **HOW DO I APPEAL A JUDGMENT**, p. 13).

## MANDATORY ARBITRATION



New York County currently is the only county with a program called **Mandatory Arbitration**. This program requires that all cases seeking damages in an amount up to \$10,000.00 first be decided by an arbitrator. An **Arbitrator** is often a retired Judge.

The Arbitrator holds a hearing at which testimony is taken and evidence received. The arbitrator then makes a written decision on the case. The decision will be mailed to you sometime after the hearing. If you fail to appear before the Arbitrator on the scheduled date, the case may be decided against you. It will be dismissed if you are the plaintiff or a judgment may be entered against you if you are the defendant.

If either of the parties who actually appeared before the Arbitrator disagrees with the decision, that party has the right to demand a new trial before a Judge or a jury. The new trial is called a **trial de novo**. A demand for a trial *de novo* must be made within 30 days of service of the arbitration award or within 35 days if the award was mailed. There is a Court fee to get a trial *de novo*. The clerk's office can tell you the amount of the fee. The Arbitrator's award becomes final and binding unless a demand for a trial *de novo* is timely made. An award of money by an Arbitrator can be entered as a judgment of the Court.

## ENTERING JUDGMENTS

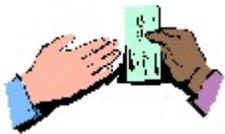
The outcome of a case is generally a judgment. You may have received a judgment in your favor after trial, inquest, arbitration, default, stipulation or motion. The judgment establishes the rights and obligations of the parties and may direct a dismissal of the lawsuit, order payment of a money amount or direct one or more of the parties to do an act. In order to start enforcing a judgment, the judgment must be “entered.” Entry occurs after the Clerk of the Court signs and files the judgment. You must come to Court and ask the clerk to prepare and enter your judgment.

Judgments also include an award of costs and disbursements. Therefore, you should bring receipts with you to Court to give to the clerk for any expenses you paid for serving papers. If the judgment is for money, interest will also be added. The clerk will calculate the amounts to be awarded in the judgment. The clerk will then enter the judgment in your favor and give you a copy.

Once the judgment is entered, you should serve a notice on the other side that the judgment was entered. This is called serving a copy of the judgment with “notice of entry,” and this service starts the losing party’s time to appeal running. You can ask the clerk or visit the Civil Court’s website to learn the procedure for serving notice of entry.

## AFTER THE TRIAL IS OVER

### HOW CAN I COLLECT MY JUDGMENT?



You must take steps in order to actually collect the money you are awarded after trial. Winning a judgment does not guarantee that you will collect. You should first try contacting the losing party to collect your judgment. If the losing party does not pay, you may need the services of a sheriff or marshal. It is up to you to provide this officer with the information needed to locate the defendant’s assets (money or property) and the enforcement officer then can seize those assets to satisfy the judgment. Property that may be reached by an enforcement officer includes bank accounts, wages, houses or other real estate, automobiles, stock and bonds. There are steps you can take to obtain information about the other side’s assets. For example, information can be sought from the judgment debtor, the judgment debtor’s bank or the judgment debtor’s employer about existing assets. A legal stationery store or law library has the forms that can be sent to attempt to locate assets in collecting a judgment, or you can come to the Court to get the papers. There is a nominal charge for filing or issuing an information subpoena.

### HOW DO I APPEAL A JUDGMENT?

You have the right to appeal a judgment. Appeals from the Civil Court are heard by the

Appellate Term of the Supreme Court of the State of New York. To appeal, You must first serve and file a Notice of Appeal and pay the required fee within 30 days after service of a notice that the judgment is entered. If you do not have the funds to pay you can ask for Poor Persons Relief. (See **POOR PERSONS RELIEF**, p. 4). **The fact that a party serves and files a Notice of Appeal does not mean that the other side cannot collect on the judgment.** The appealing party may also seek an order stopping the enforcement of the judgment, which is called a stay. Generally, a bond or undertaking must be filed with the Court in order to get a stay. This bond or undertaking guarantees payment of the judgment should the appealing party lose the appeal.

Each Court has an Appeals Clerk who can give you information about how to ask to stay enforcement of a judgment and how to file an appeal. Ask in the General Clerk's office where the Appeal's Clerk is located. You can also visit the Civil Court's website for additional information.

## HELPFUL RESOURCES

### ☛ CIVIL COURT RESOURCE CENTERS

All of the Civil Court buildings have a Resource Center where you can obtain written information and forms. You can also use the internet to conduct legal research. On a limited basis, there is a Court employee, who is an attorney, available to give you legal and procedural information. Check with the Resource Center in your county for availability of the Civil *Pro Se* Attorney. All of the services in the Resource Centers are free.

### ☛ CIVIL COURT INTERACTIVE TELEPHONE SERVICE

The Civil Court interactive telephone service provides legal and procedural information. It is available at (646) 386-5700. The service is provided 24 hours and is available in Spanish.

### ☛ CIVIL COURT WEBSITE

The Civil Court maintains a website that provides detailed information about the Civil Court. The legal and procedural sections include more information about the topics covered in this booklet. You can also download Civil Court forms for free. The website is also available in Spanish. You can visit the website at: <http://nycourts.gov/courts/nyc/civil/civil.shtml>.

**ADDRESSES AND PUBLIC TRANSIT TRAVEL DIRECTIONS  
TO NEW YORK CITY CIVIL COURTS**

**Bronx County**

851 Grand Concourse  
4, C or D Train - To 161 Street

**New York County**

111 Centre Street (75 Lafayette Street) (between White and Franklin Streets)  
1 Train - To Franklin Street  
4 or 5 Train - To Brooklyn Bridge  
6 Train - To Canal Street  
A, C, E, J, M, N, R or Z - To Canal Street Station

**Kings County**

141 Livingston Street  
2, 3, 4, or 5 Train - To Borough Hall Station  
A, C, or F Train - To Jay Street/Borough Hall Station  
M, N, or R Train - To Lawrence Street/Metro Tech Station

**Queens County** - (Jamaica)

89-17 Sutphin Boulevard (at 89<sup>th</sup> Avenue)  
E, F, or J Train - Sutphin Boulevard Station  
IQ40, Q43 or Q44 Bus - To Sutphin Boulevard  
Q9, Q24, Q30, Q31, Q54, Q56 - To Jamaica Avenue

**Richmond County**

927 Castleton Avenue (Corner of Bement Avenue)  
At the Staten Island Ferry Bus Ramp take either:  
**S-44 Staten Island Mall Bus** or **S-46 Castleton Avenue Bus**  
Get off at the corner of Castleton Avenue and Bement Avenue  
(About a 20 minute ride from the ferry bus ramp)

