

SUPREME COURT, CIVIL BRANCH  
New York County  
60 Centre Street, New York, N.Y. 10007

Office for the Self Represented  
Room 116, (646) 386 - 3025

**How to Make a Motion**

**Note: All persons involved in a lawsuit should consult an attorney. This office gives information, forms and instructions on court procedures. As an office of this court, we cannot give legal advice or act as your advocate.**

A **motion** is a request for a court order that can only be made after a lawsuit has been started. The party (plaintiff or defendant) making the motion is known as the **movant**.

**What you need to know**

- There is a **\$45** fee to file a motion with the court  
Pay by cash, Visa/MasterCard or postal money order, made out to "New York County Clerk".
- additional fee of **\$95**, if the case is not yet assigned to a Judge  
This fee is charged only once and paid by the first party in the case who requests a court order. If you have a limited income, ask in Room 116 about applying for a **Poor Person Order** which will allow you to file without paying these fees.
- you are required to have all parties to the lawsuit notified that you are making a motion.  
This is done by having someone over the age of 18, who is not a party in the case, give a copy of the motion papers to each party (or a party's attorney is served, if he/she has one).  
This is known as **service** of the papers. *You cannot serve your own papers.*

Refer to the Civil Practice Law and Rules (CPLR) Article 22 to review the law regarding motion practice. The Public Access Law Library at 80 Centre St, Room 468, New York, N.Y., is open to the public, Monday to Friday, 9:30 A.M. to 4:30 P.M., (646) 386 - 3715.

**The Motion Papers**

To file a motion with the court, you must prepare either:

**Notice of Motion** papers or **Order to Show Cause** (OSC) papers

*The filing procedures are different for each of the above methods.*

Compare by referring to the chart on page 2.

After you read this pamphlet, *choose one procedure.*

Then follow the step - by - step instructions to prepare and file your motion.

When you file by:

**Notice of Motion**

**Order to Show Cause (OSC)**

You pick the date to come to court.	Judge picks the date to come to court. An OSC is a court order that <i>must</i> be signed by a Judge.
Your request is not urgent and does not need immediate attention.	Your request is urgent and needs immediate attention.
You <i>cannot</i> ask for a <b>Temporary Restraining Order (TRO)</b> to <b>stay</b> (stop) an action being taken by a party.	You may ask for a <b>Temporary Restraining Order (TRO)</b> to <b>stay</b> (stop) an action being taken by a party. See <b>Notes</b> . (Speak to a Clerk in Room 116 about the paperwork for a TRO).
Service of motion papers is done <i>before</i> filing motion with the court.	Service of motion papers is done <i>after</i> filing motion with the court.
Motion papers may be served by regular mail.	Motion papers required to be personally served. (You may ask for overnight mail service, but the Judge must approve it).
You are not required to appear in front of the Judge <i>unless</i> you are notified to appear.	You are required to appear in front of the Judge.

To file by **Notice of Motion**:

*Fill out the papers listed below.*

Notice of Motion - page 3

Affidavit in Support with Exhibits - page 5

Litigation Back (blue color) - page 6

**Request for Judicial Intervention (RJI)** -page 6

Affidavit of Service - pages 1 and 7

*Now, follow the instructions on pages 7 and 8.*

To file by **Order to Show Cause (OSC)**:

*Fill out the papers listed below.*

**Order to Show Cause(OSC)** - page 4

Affidavit in Support with Exhibits - page 5

Litigation Back (blue color) - page 6

**Request for Judicial Intervention (RJI)** - page 6

Affidavit of Service - pages 1 and 10

*Now, follow the instructions on pages 9 and 10.*

**Notes**

**Starting a lawsuit and filing an Order to Show Cause (OSC) at the same time**

A plaintiff, who wants to request a **Temporary Restraining Order (TRO)**, which is an order that **stays** (stops) an action being taken by the defendant, until the Judge hears the case, may start a lawsuit and submit an OSC on the same day. The lawsuit is started by the filing a Summons and Complaint. A copy of the Summons and Complaint *must* be attached to the OSC papers as an exhibit. The **Affidavit in Support** of the OSC *must* state that a separate copy of the Summons and Complaint will be served when the OSC is served. After service, the server signs two **original** Affidavits of Service in front of a notary. One affidavit *must* be filed immediately in the County Clerk's Office, 60 Centre Street, Room 141B, in the basement. The second affidavit is submitted to the Judge on the return date of the OSC. See How to Commence a Civil Action and How to Serve Legal Papers, available in Room 116.

**Motion to dismiss**

If a defendant decides to make a **motion to dismiss** before answering a Complaint, he or she *must* include certain types of objections or defenses in the motion. If not included, they will be considered **waived** (given up). See CPLR 3211 (a)1, 3, 4, 5 and 6. To avoid losing any defenses you may have, carefully review this statute before making a motion to dismiss.

**Notice of Motion** - This form tells all parties that you are making a motion and describes what you are requesting. You *must* include the date to come to court, known as the **return date**, time and courtroom. You pick the return date and may choose any Monday to Friday that does not fall on a holiday. If you pick a return date more than 12 days after the day the motion papers will be served, it will allow you to have someone serve by regular mail, and allow you to make a written response to any opposition to your motion. (A shorter return date requires personal service). \$45 fee.

Go to page 5 after you complete the Notice of Motion form. Do not fill out the OSC form.

Print the following information in **black ink**

[1] name(s) of plaintiff(s)

[2] name(s) of defendant(s)

[3] Index Number

[4] name of party making the motion

[5] date Affidavit in Support notarized

[6] identify party as plaintiff or defendant and give name of party

[7] return date

[8] *briefly* describe what you are requesting

[9] date papers filled out

[10] sign and print name, address, telephone number of party making motion

[11] identify party to be served and give name, address, telephone number.

[Print in **black ink** to fill in the spaces next to the instructions]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

\_\_\_\_\_X  
[1] \_\_\_\_\_  
[fill in name(s)] Plaintiff(s)

- against -  
[2] \_\_\_\_\_  
[fill in name(s)] Defendant(s) \_\_\_\_\_X

Index Number [3] \_\_\_\_\_

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the attached affidavit(s) of [4] \_\_\_\_\_  
[your name(s)], sworn to on [5] \_\_\_\_\_, 200\_\_\_\_

[date Affidavit in Support notarized], the exhibits attached to the affidavit(s), and upon all proceedings in this case to date, the plaintiff(s) / defendant(s) [circle one and give name of party making this request] [6] \_\_\_\_\_ will move in this Court, at 9:30 A.M. on the [7] \_\_\_\_\_ day of [7] \_\_\_\_\_, 200\_\_\_\_, [return date] at the Courthouse, 60 Centre Street, New York, New York, in the Motion Support Courtroom, Room 130, for a order, pursuant to the Civil Practice Law and Rules (CPLR), granting the following relief to the movant(s): [briefly describe what you are asking the Court to do] [8] \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

and for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to Civil Practice Law and Rules

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2214(b), you are hereby required to serve copies of your answering affidavits on the undersigned no later than the seventh day prior to the date set above for the submission of this motion. [For this paragraph to apply, motion papers *must* be served by personal delivery no later than 12 days before the return date or served by mail no later than 17 days before the return date].

Dated: [9] \_\_\_\_\_, 200\_\_\_\_  
[date signed]

Respectfully submitted, [10] \_\_\_\_\_  
[sign your name]  
\_\_\_\_\_ [print your name]  
\_\_\_\_\_ [address and telephone number]

To: Attorney for Plaintiff(s) / Defendant(s) [circle one] [11] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [print name, address and telephone number]

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NotMot4/08

**Order to Show Cause (OSC)** - This form is a court order that only becomes effective *after* the Judge signs it. If signed, the Judge picks the date to come to court, known as the **return date**, time and courtroom. The OSC informs all parties that you have made a motion and *briefly* states what you are requesting and why. If there is an action by a party that you are asking the Judge to **stay** (stop) while this case is going on, ask for a **Temporary Restraining Order (TRO)**. Submit documentation that shows why you are asking for a TRO. \$45 fee.

Print the following information in **black** ink

[1] name(s) of plaintiff(s)

[6] identify any **Exhibits** (documents) you are submitting (see page 5).

[2] name(s) of defendant(s)

[7] refer to yourself as plaintiff (or defendant) and *briefly* describe what you, the plaintiff (or defendant) are requesting

[3] Index Number

[4] name of party making the motion

[8] *briefly* describe why your request should be granted

[5] date Affidavit in Support notarized

[9] describe **TRO** being requested, if any

[Print in **black** ink to fill in the spaces next to the instructions. Other spaces are for Court use.]

At I.A.S. Part \_\_\_\_\_ of the Supreme Court of the State of New York held in and for the County of New York at the Courthouse, thereof, 60 Centre Street, New York, N.Y., on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_

PRESENT: HON. \_\_\_\_\_ Justice of the Supreme Court \_\_\_\_\_ x

[1] \_\_\_\_\_ Plaintiff(s)

- against -

[2] \_\_\_\_\_ Defendant(s) \_\_\_\_\_ x

[3] \_\_\_\_\_ Index Number

ORDER TO SHOW CAUSE WITH T.R.O. IN CIVIL ACTION

[4] \_\_\_\_\_

Upon reading and filing the affidavit(s) of \_\_\_\_\_ [5] \_\_\_\_\_, 200\_\_\_\_ [your name(s)] sworn to on \_\_\_\_\_

[date Affidavit in Support notarized] and upon the exhibits attached to the affidavit, [Identify Exhibits below. List additional exhibits on a separate page.] Exhibit A - [6] \_\_\_\_\_

Let the party or attorney in opposition show cause at I.A.S. Part \_\_\_\_\_, Room \_\_\_\_\_ of this Court, to be held at the Courthouse, 60 Centre Street, New York, N.Y., on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon or as soon as such party or attorney may be heard why an order should not be made, providing the following relief: [briefly describe what you are asking the Court to do] - [7] \_\_\_\_\_

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for the reasons that [briefly describe the reasons why you should be granted what you are requesting] - [8] \_\_\_\_\_

Pending the hearing of this motion it is ORDERED that [describe what you are asking the court to stay] [9] \_\_\_\_\_

Sufficient cause appearing therefore, let personal service of a copy of this order, the affidavit in support and all other papers upon which this order is granted, upon all parties to this action or their attorneys, who have appeared in this action, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_ be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

ENTER \_\_\_\_\_ J. S. C.

OSC/TRO/Action4-06 2

**Affidavits in Support** - The affidavit is your sworn statement and it must *fully* explain your request. You *won't* speak to the Judge, unless he or she wants "oral argument." The Judge's decision is based on the papers submitted by all parties.

Attach any **Exhibits** (copies of documents which help explain and support your request) to your affidavit. Label each exhibit, at the bottom of the page, as Exhibit A, Exhibit B, and so on. Exhibits will not be returned. Bring the original documents when you come to court in the event a hearing is ordered. You *must* sign your affidavit in front of a notary. There is a free notary in the County Clerk's Office, 60 Centre Street, Room 141B in the basement.

Print the following information in **black** ink

- [1] name(s) of plaintiff(s)
- [2] name(s) of defendant(s)
- [3] Index Number
- [4] name of party making the motion
- [5] identify party making motion as plaintiff or defendant
- [6] *briefly* describe what is being requested
- [7] explain, with details, the reasons your motion should be granted (add more pages, if needed)
- \*If requesting a TRO, explain your reasons for asking for a stay
- \*If requesting overnight mail service, explain your reasons
- [8] choose one and circle
- [9] describe where, when and result of any previous application
- [10] sign and print your name in front of a notary

[Print in **black** ink to fill in the spaces next to the instructions]

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

\_\_\_\_\_ x  
 [1] \_\_\_\_\_  
 [fill in name(s)] Plaintiff(s)/Petitioner(s)

- against -  
 [2] \_\_\_\_\_  
 [fill in name(s)] Defendant(s)/Respondent(s)

STATE OF NEW YORK  
 COUNTY OF \_\_\_\_\_ ss:  
 [4] \_\_\_\_\_ [your name], being duly  
 sworn, deposes and says: [5]

1. I am the plaintiff / petitioner / defendant / respondent [circle one] in this matter. I make this affidavit in support of this motion for an order [Describe what you are asking the Court to do. This relief must also be stated in the Notice of Motion or Order to Show Cause.] [6]

2. I believe the Court should grant this motion because [Explain why you should be granted what you are requesting. Explain any Exhibits (documents) you submit. Add more pages if needed.] [7]

\_\_\_\_\_ [8]

3. A prior application *has not / has* [circle one] been made for the relief now requested. [If you made this application before in this or any other court, describe where, when, the result and why you are making it again. Attach copies of previous decisions.] [9]

WHEREFORE, I respectfully request that this motion be granted, and that I have such other and further relief as may be just and proper.

Sworn to before me on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ [10]  
 \_\_\_\_\_ [sign your name in front of a Notary]

Notary Public \_\_\_\_\_ [print your name]

**Litigation Back** (blue color) - On the *right side* of the Litigation Back, in **black ink**, fill in the Index Number, name(s) of Plaintiff(s) and Defendant(s). Sign and print your name, address, and telephone number. Do not fill in the left side of the page.

**Request for Judicial Intervention (RJI)** - If the case has not yet been assigned to a Judge, the first party to request a court order files this form and pays the \$95 fee.

Print the following information in **black ink**

- [1] Supreme [7] if filing by Notice of Motion, check box, fill in the return date
- [2] New York [8] if filing by OSC, check box, leave return date blank
- [3] Index Number [9] check box that describes the lawsuit
- [4] date Index Number purchased [10] name(s), address(es), telephone number(s) of Plaintiff(s)
- [5] name(s) of plaintiff(s) [11] name(s), address(es), telephone number(s) of Defendant(s)
- [6] name(s) of defendant(s) [12] date papers filled out [13] sign and print your name

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**REQUEST FOR JUDICIAL INTERVENTION**

[1] COURT, [2] COUNTY  
 INDEX NO. [3] DATE PURCHASED: [4]

PLAINTIFF(S): [5]  
 DEFENDANT(S): [6]

For Clerk Only  
 IAS entry date  
 Judge Assigned  
 RJI Date

Date issue joined: \_\_\_\_\_ Bill of particulars served (Y/N): [ ] Yes [ ] No

**NATURE OF JUDICIAL INTERVENTION** (Check ONE box only AND enter information)

[ ] Request for preliminary conference  
 [ ] Note of issue and/or certificate of readiness  
 [7] [ ] Notice of motion (return date: \_\_\_\_\_)  
 Relief sought: \_\_\_\_\_  
 [8] [ ] Order to show cause (clerk enter return date: \_\_\_\_\_)  
 Relief sought: \_\_\_\_\_  
 [ ] Other ex parte application (specify: \_\_\_\_\_)

[9] **NATURE OF ACTION OR PROCEEDING** (Check ONE box only)

<b>PERSONAL</b>	-CM	<b>TRUST</b>	
[ ] Contested		[ ] Malpractice	-MH
[ ] Uncontested	-UM	[ ] Medical/podiatric	-DM
		[ ] Dental	-DM
<b>COMMERCIAL</b>		[ ] *Other Professional	-OPW
[ ] Contract	-CONT	[ ] Motor Vehicle	-MV
[ ] Corporate	-CORP	[ ] *Products Liability	-PL
[ ] Insurance (where insurer is a party, except arbitration)	-INS	[ ] Environmental	-EN
[ ] UCC (including sales, negotiable instruments)	-UCC	[ ] Asbestos	-ASB
[ ] *Other Commercial	-OC	[ ] Breast Implant	-BI
		[ ] *Other Negligence	-ON
<b>REAL PROPERTY</b>		[ ] *Other Tort (including intentional)	-OT
[ ] Tax Certiorari	-TAX		
[ ] Foreclosure	-FOR	<b>SPECIAL PROCEEDINGS</b>	
[ ] Condemnation	-COND	[ ] Art. 75 (Arbitration)	-ART75
[ ] Landlord/Tenant	-LT	[ ] Art. 77 (Trusts)	-ART77
[ ] *Other Real Property	-ORP	[ ] Art. 78	-ART78
		[ ] Election Law	-ELEC
<b>OTHER MATTERS</b>		[ ] Guardianship (MGL Art. 61)	-GUARD61
[ ]	-OTH	[ ] *Other Mental Hygiene	-MHYG
		[ ] *Other Special Proceeding	-OSP

\* If asterisk used, please specify.

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a  
 YES NO YES NO  
 [ ] [ ] Municipality: [ ] [ ] Public Authority:  
 (Specify: \_\_\_\_\_) (Specify: \_\_\_\_\_)

YES NO  
 [ ] [ ] Does this action/proceeding seek equitable relief?  
 [ ] [ ] Does this action/proceeding seek recovery for personal injury?  
 [ ] [ ] Does this action/proceeding seek recovery for property damage?

**Pre-Note Time Frames:**  
 (This applies to all cases except contested matrimonial and tax certiorari cases)  
 Estimated time period for case to be ready for trial (from filing of RJI to filing of Note of Issue)  
 Expedited: 0-3 months  Standard: 3-12 months  Complex: 13-15 months

**Contested Matrimonial Cases Only:** (Check and give date)  
 Has summons been served?  No  Yes, Date \_\_\_\_\_  
 Was a Notice of No Necessity filed?  No  Yes, Date \_\_\_\_\_

**ATTORNEY(S) FOR PLAINTIFF(S):**

Self Rep.	Name	Address	Phone #
<input type="checkbox"/>	[10]		
<input type="checkbox"/>			

**ATTORNEY(S) FOR DEFENDANT(S):**

Self Rep.	Name	Address	Phone #
<input type="checkbox"/>	[11]		
<input type="checkbox"/>			

\*Self Represented: parties representing themselves, without an attorney, should check the "Self Rep" box and enter their name, address, and phone # in the space provided above for attorneys.

**INSURANCE CARRIERS:**

**RELATED CASES:** (If none, write "NONE" below)

Title	Index #	Court	Nature of Relationship

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: [12] [13]  
 (SIGNATURE)  
 (PRINT OR TYPE NAME)  
 ATTORNEY FOR \_\_\_\_\_

ATTACH RIDER SHEET IF NECESSARY TO PROVIDE REQUIRED INFORMATION

## **Filing the Notice of Motion**

**Complete each step. Do not skip a step. Check the box when done.**

Arrange the papers listed below in the following order.

- 1st. Request for Judicial Intervention (RJI), if the case is not assigned to a Judge
- 2<sup>st</sup>. Notice of Motion
- 3<sup>nd</sup>. Affidavit in Support
- 4<sup>rd</sup>. Exhibit A, B, C and so on
- 5<sup>th</sup>. Litigation Back (blue color)

This is the **original** set of Notice of Motion papers, which will go to the Judge.

Make copies of the **original** Notice of Motion papers (and RJI, front and back, if the case is not assigned to a Judge). You *must* have one copy for each party to be served and one copy for your records. After copies are made, staple each set together.

## **Serving copies of the Notice of Motion papers and the Affidavit of Service**

The server gives a copy of the Notice of Motion papers (and a copy of the RJI, if the case is not assigned to a Judge) to each party (or a party's attorney is served, if he/she has one). Service may be done by regular, overnight mail or personal service.

The server then signs an **Affidavit of Service** in front of a notary. This affidavit tells the court when and where service was made and identifies the papers and the parties served. See page 1.

Or, the server may ask a party (or attorney) being served by personal service, if they will sign or "stamp" the Litigation Back of the **original** Notice of Motion papers. The "stamp" is accepted as proof of service. Make a copy of the proof of service for your records.

## **Filing the original Notice of Motion papers with the court**

- After service, and at least 5 business days before the return date, go to the Motion Support Office, 60 Centre Street, Room 119, 1<sup>st</sup> floor, with the following papers:
- **original** Notice of Motion papers
  - **original** RJI and one copy, if also served
  - Affidavit of Service or a party's (or their attorney's) "stamp" on the Notice of Motion papers
- In Room 119, the Clerk will stamp your original papers and send you to the Cashier in Room 160, 1<sup>st</sup> floor, to pay \$45 motion fee (and \$95 RJI fee, if also served).
- In Room 160, the Cashier will also stamp your original papers (and keep the copy of the RJI, if also served). In Room 160, make a copy only of the two Notice of Motion pages.
- Return to Room 119. Give the Clerk the **original** Notice of Motion papers, the copy of the Notice of Motion pages (and **original** RJI).

**Coming to court on the Return Date Do Not Be Late!**

- At **9:30 A.M.** on the **return date**, be in the Motion Support Courtroom, 60 Centre St., Room 130, 1<sup>st</sup> floor. The calendar, which is a list of all motions scheduled, is posted near the door. Listen to the Clerk and answer "Here" when your motion is called.

A party can:

- contact you before or on the return date to ask for an **adjournment** to submit papers  
An **adjournment** is a new date agreed to by the parties or set by the court.  
If the parties agree, the court has to approve the new date.  
If the parties do not agree, the court will hear the request on the return date.  
Requests for adjournments must be made, in person, in Room 130.
- answer with an **Affidavit in Opposition** asking that your motion be denied  
Or, make a motion in response to your motion, known as a **Cross - Motion**.  
This is done when a party wants to request an order, in addition to denial of your motion.  
Opposition papers can be served by mail. You may receive them before the return date.

You can:

- request an adjournment to submit **Reply** papers  
A **Reply** allows you to respond only to statements made in opposition papers.  
You may not make new requests in Reply papers.  
**Note:** A reply is allowed only if your motion was served at least 8 days by personal service or 12 days by mail *before* the return date.  
A copy of your Reply *must* be served at least 1 day before the return or adjournment date by personal or mail service. A sample Reply form is available in Room 116

**Original** opposition and **original** Reply papers, with proof of service, are filed in Room 130, on the return or adjournment date.

After Reply papers, no further papers may be submitted without permission of a Judge.

The papers are now sent to the Judge. If the Judge wants "oral argument", you will be notified, usually, by mail, of the date, time and courtroom. You *must* appear to speak to the Judge or your motion may be denied. The Judge will issue a written decision, usually within 2 months.

**Getting a decision on your motion**

- *It is your responsibility to check if a decision has been made.*
  - go to the New York State Unified Court System Internet web site at [www.nycourts.gov](http://www.nycourts.gov)  
Decisions in matrimonial cases are not posted.
  - use a public access court computer located in Rooms 119, 311 and 141B
  - check the case file, under the Index Number, in the County Clerk's Office Record Room, Room 103B, in the basement, at 60 Centre St., from 9:00 A.M. to 3:00 P.M.

## **Filing the Order to Show Cause (OSC)**

**Complete each step. Do not skip a step. Check the box when done.**

Arrange the papers listed below in the following order.

- 1<sup>st</sup>. Request for Judicial Intervention (RJI), if the case not assigned to a Judge
- 2<sup>st</sup>. Order to Show Cause (OSC)
- 3<sup>rd</sup>. Affidavit in Support
- 4<sup>rd</sup>. Exhibit A, B, C and so on
- 5<sup>th</sup>. Litigation Back (blue color)

This is the **original** set of Order to Show Cause (OSC) papers, which will go to the Judge.

**Important:** You *must* make one copy of the **original** OSC papers (and 2 copies of the RJI, front and back, if the case is not assigned to a Judge), *before* the original papers are submitted to the court. You *must* have a copy of the OSC papers (and RJI) for later.

## **Submitting the Order to Show Cause (OSC) papers to the court**

For *matrimonial* cases (sealed file) - You *must* present photo I.D. to retrieve the OSC papers. If you cannot, only persons authorized by you, may process the papers. Your notarized authorization must identify the case, the person by name and he or she *must* show photo I.D.

Go to the Ex Parte Office, 60 Centre Street, Room 315, 3<sup>rd</sup> floor. Give the Clerk the **original** OSC papers (and **original** RJI and one copy, if the case is not assigned to a Judge).

In Room 315, the Clerk will stamp your original papers and send you to the Cashier in Room 160, 1<sup>st</sup> floor, to pay the \$45 motion fee (and, if necessary, the \$95 RJI fee). The Cashier will also stamp your papers (and keep the copy of the RJI).

Return to Room 315. Give the Clerk the **original** OSC papers (and **original** RJI).

Wait **24 - 48** hours and call the Office for the Self Represented at (646) 386 -3025.

Say you have submitted an Order to Show Cause in Room 315 and give the name of the case. You will be given one of the following instructions:

- your OSC was found to be "defective" by Room 315

Pick up the papers in Room 116, correct the problem and resubmit the OSC to Room 315

**Or-** your OSC has been signed by the Judge and is ready to be served

Go to Room 116, with your complete copy of the OSC papers (and RJI, if also filed), for further instructions about serving the OSC (and RJI).

**Or-** your OSC is ready to be submitted to the Judge\*\*

Bring your complete copy of the OSC papers (and RJI, if also filed). Pick up the original OSC in Room 116. Go to the courtroom of the Judge assigned to your case. In the courtroom, give the original OSC to the Part Clerk, who will give you further instructions. This is the procedure when the courtroom is located at 80 Centre St., 100 Centre St., 111 Centre St. or 71 Thomas St. \*\* If you are requesting a TRO (stay), see the Clerk in Room 116 for *special instructions* before you bring the OSC to your assigned Judge.

- When the **Order to Show Cause (OSC)** is signed:
  - Judge will pick the return date, time, courtroom, type of service and date when you *must* have copies of the OSC papers (and RJI, if also filed), served on all parties.
  - Judge may direct that you be served with answering papers by a certain date and the type of service allowed. If no date is given, answering papers are submitted on the return date and can be served at least 1 day before the return date, by mail.
  - Judge may direct "oral argument". It will be noted on the OSC and you will speak to the Judge about your motion on the return date.
  - Judge may permit you to file a **Reply**, which is your response only to what a party has said in opposition papers. If not noted on the OSC, you cannot submit a Reply.
- Important:** Now update your copy of the original OSC papers, by replacing the unsigned OSC with a copy of the OSC, signed by the Judge.
- Make one copy of the signed OSC, Affidavit in Support, Exhibits, Litigation Back (and RJI, if also filed) for each party (or their attorney) to be served. Make a copy for your records.

### **Serving copies of the OSC papers and the Affidavit of Service**

- The server gives a copy of the signed OSC papers (and a copy of the RJI, if also filed), by personal service or the type of service directed by the Judge to each party (or a party's attorney is served, if he/she has one). The server then signs an Affidavit of Service in front of a notary. This affidavit tells the court when and where service was made and identifies the papers and parties served. See page 1.

A party can answer with:

- an **Affidavit in Opposition** asking that your motion be denied
  - Or** - make a motion in response to your motion, known as a **Cross - Motion**
- This is done when a party is requesting an order, in addition to the denial of your motion.

### **Coming to court on the Return Date    Do Not Be Late!**

- On the return date:
  - submit the **original** Affidavit of Service or your motion may be denied
  - the other parties may appear and submit opposition papers
  - Judge may **adjourn** (parties given a new date to come back to court) the motion
 After "oral argument", if required, and submission of all allowed papers, the Judge will issue a written decision, usually within 2 months.

### **Getting a decision on your motion**

- It is your responsibility to check if a decision has been made.*
  - go to the New York State Unified Court System Internet web site at [www.nycourts.gov](http://www.nycourts.gov)  
Decisions in matrimonial cases are not posted.
  - use a public access court computer located in Rooms 119, 311 and 141B
  - check the case file, under the Index Number, in the County Clerk's Office Record Room, Room 103B, in the basement at 60 Centre St., from 9:00 A.M. - 3:00 P.M.

[Print in **black** ink all area in bold letters.]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

\_\_\_\_\_  
[fill in name(s)] Plaintiff(s)  
- against -

Index Number  
\_\_\_\_\_

NOTICE OF MOTION

\_\_\_\_\_  
[fill in name(s)] Defendant(s)  
-----X

PLEASE TAKE NOTICE that upon the attached affidavit(s) of \_\_\_\_\_

\_\_\_\_\_ [your name(s)], sworn to on \_\_\_\_\_, 200\_\_

[date Affidavit in Support notarized], the exhibits attached to the affidavit(s), and upon all proceedings in this case to date, the plaintiff(s) / defendant(s) [circle one and give name of party making this request] \_\_\_\_\_ will move in this Court,

at 9:30 A.M. on the \_\_\_ day of \_\_\_\_\_, 200\_\_, [return date] at the Courthouse,

60 Centre Street, New York, New York, in the Motion Support Courtroom, Room 130, for a order,

pursuant to the Civil Practice Law and Rules (CPLR), granting the following relief to the movant(s):

[briefly describe what you are asking the Court to do] \_\_\_\_\_

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

and for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to Civil Practice Law and Rules

2214(b), you are hereby required to serve copies of your answering affidavits on the undersigned no later than the seventh day prior to the date set above for the submission of this motion. **[For this paragraph to apply, motion papers must be served by personal delivery no later than 12 days before the return date or served by mail no later than 17 days before the return date].**

Dated: \_\_\_\_\_, 200\_\_  
          **[date signed]**

Respectfully submitted,

\_\_\_\_\_  
**[sign your name]**

\_\_\_\_\_  
**[print your name]**

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

\_\_\_\_\_  
**[address, telephone number]**

To: Attorney for Plaintiff(s) / Defendant(s) **[circle one]**

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

\_\_\_\_\_  
**[print name, address, telephone number]**

[Print in ***black*** ink all areas in bold letters. Other spaces are for Court use].

At I.A.S. Part \_\_\_\_\_ of the Supreme Court of the State of New York, held in and for the County of New York at the Courthouse therefore, 60 Centre Street, New York, N.Y., on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

PRESENT: HON. \_\_\_\_\_  
Justice of the Supreme Court

-----X

\_\_\_\_\_,  
[fill in name(s)] Plaintiff(s)  
- against -

**Index Number**

\_\_\_\_\_  
**ORDER TO SHOW CAUSE  
IN CIVIL ACTION**

\_\_\_\_\_,  
[fill in name(s)] Defendants(s)  
-----X

Upon reading and filing the affidavit(s) of \_\_\_\_\_

\_\_\_\_\_ [your name(s)], sworn to on \_\_\_\_\_, 200\_\_

[date Affidavit in Support notarized], and upon the exhibits attached to the affidavit,

[Identify Exhibits below. List additional Exhibits on separate page.]

**Exhibit A -**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Let the party or attorney in opposition show cause at I.A.S. Part \_\_\_\_\_, Room \_\_\_\_\_, of this Court, to be held at the Courthouse, 60 Centre Street, New York, N.Y., on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon or as soon as such party or

attorney may be heard why an order should not be made, providing the following relief:

[briefly describe what you are asking the Court to do]: \_\_\_\_\_  
\_\_\_\_\_



[Print in **black** ink all areas in bold letters.]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

\_\_\_\_\_  
[fill in name(s)] Plaintiff(s)/Petitioner(s)  
- against -

\_\_\_\_\_  
[fill in name(s)] Defendant(s)/Respondent(s)

-----X

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_ ss:

**Index Number**

\_\_\_\_\_

**AFFIDAVIT  
IN SUPPORT**

\_\_\_\_\_ [your name], being duly  
sworn, deposes and says:

1. I am the plaintiff / petitioner / defendant / respondent **[circle one]** in this matter. I make  
this affidavit in support of this motion for an order **[Describe what you are asking the Court to  
do. This relief must also be stated in the Notice of Motion or Order to Show Cause.]** \_\_\_\_\_

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

2. I believe the Court should grant this motion because **[Explain why you should be  
granted what you are requesting. Explain any Exhibits (documents) you submit . Add more  
pages if needed.]** \_\_\_\_\_

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



\_\_\_\_\_,  
Plaintiff

- against -

\_\_\_\_\_,  
Defendant

AFFIDAVIT OF SERVICE after  
COMMENCEMENT of LITIGATION

STATE OF NEW YORK, COUNTY OF \_\_\_\_\_ ss:

I, **[name of person who served papers]** \_\_\_\_\_, being duly sworn,  
depose and say: I am over 18 years of age and am not a party to this case.

I reside at **[your address]** \_\_\_\_\_

On **[date of service]** \_\_\_\_\_, 200\_\_, at **[time of day]** \_\_\_\_\_ AM / PM, I served a true copy of  
the following papers: **[identify papers served]** \_\_\_\_\_  
\_\_\_\_\_, in the following manner. **[check box that applies]**

**Personal Service** By personally delivering the papers to **[identify person served]** \_\_\_\_\_  
\_\_\_\_\_ at **[address]** \_\_\_\_\_

The individual I served had the following characteristics **[check one box in each category]:**

- | <u>Sex</u>                      | <u>Height</u>                       | <u>Weight</u>                           | <u>Age</u>                             |
|---------------------------------|-------------------------------------|---|--|
| <input type="checkbox"/> Male   | <input type="checkbox"/> Under 5"   | <input type="checkbox"/> Under 100 lbs. | <input type="checkbox"/> 21 - 34 years |
| <input type="checkbox"/> Female | <input type="checkbox"/> 5'0"- 5'3" | <input type="checkbox"/> 100 -130 lbs.  | <input type="checkbox"/> 35 - 50 years |
|                                 | <input type="checkbox"/> 5'4"- 5'8" | <input type="checkbox"/> 131 -160 lbs.  | <input type="checkbox"/> 51 - 65 years |
|                                 | <input type="checkbox"/> 5'9"- 6'0" | <input type="checkbox"/> 161 - 200 lbs. | <input type="checkbox"/> Over 65 years |
|                                 | <input type="checkbox"/> Over 6'    | <input type="checkbox"/> Over 200 lbs.  |  |

**[describe]:** Skin color \_\_\_\_\_ Hair color \_\_\_\_\_

Other identifying features, if any **[describe]:** \_\_\_\_\_

**Mail** By mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official  
depository of the U.S. Postal Service within the State of New York, addressed to the last-known  
address of the addressee(s) indicated below:

**Overnight Delivery Service** By depositing the same with an overnight delivery service in a wrapper properly addressed. Said  
delivery was made prior to the latest time designated by the overnight delivery service for overnight  
delivery. The delivery service used was **[name of delivery service]** \_\_\_\_\_

**[Name(s) and address(es) of person(s) served by mail/overnight delivery]**

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

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
**[sign name before a Notary]**

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

\_\_\_\_\_  
**[print your name]**

\*\*\*\*\*NOTICE OF ENTRY\*\*\*\*\*

Sir/Madam:

Please take notice that the within is a (certified) true copy of a \_\_\_\_\_ duly entered in the office of the clerk of

the within named court on the \_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_\_

Dated: \_\_\_\_\_ Yours, etc.  
Attorney for: \_\_\_\_\_ Petitioner /  
Respondent  
Office and Post  
Office Address

To: \_\_\_\_\_  
Attorney(s) for \_\_\_\_\_

\*\*\*\*\*NOTICE OF SETTLEMENT\*\*\*\*\*

Sir/Madam:

Please take notice that an \_\_\_\_\_ of which the within is a true copy will be presented for settlement

to the Hon. \_\_\_\_\_, one of the Justices

of the within named court at \_\_\_\_\_, 200 \_\_\_\_ at \_\_\_\_ AM/PM

Dated: \_\_\_\_\_, 200 \_\_\_\_ Yours, etc

Petitioner \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_  
Attorney(s) for \_\_\_\_\_  
\_\_\_\_\_

INDEX NUMBER \_\_\_\_\_

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

\_\_\_\_\_ Plaintiff / Petitioner  
- against -  
\_\_\_\_\_ Defendant/ Respondent,  
\_\_\_\_\_

To the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of these papers and the contentions therein are not frivolous as defined in subsection (c) of section 130-1.1 of the Rules of the Chief Administrator (22NYCRR).

Sign Name: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_

Service of a copy of the within is hereby admitted

Dated: \_\_\_\_\_, 200 \_\_\_\_  
Attorney for \_\_\_\_\_