

**STATE OF NEW YORK
SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
P.O. BOX 7288, CAPITOL STATION
ALBANY, NY 12224**

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

- 1) At the top of the attached 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. This is the caption. Below the caption is a sentence which begins "Please take notice...". The first date to be filled in is the date the attached affidavit in support of the motion was notarized. The second date to be filled in is the return date of the motion, which should be a Monday after service of the motion papers upon all parties as described in paragraph 2 below.
- 2) The motion papers should be served on all parties (if a party is represented by an attorney, service of a copy should be made upon the attorney and if a party is represented by the Office of the Attorney General, service of a copy should be made upon that office), 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.
- 3) 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. If the motion is being made in connection with an appeal to this Court, 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.
- 4) **THERE WILL NOT BE ORAL ARGUMENT ON THE RETURN DATE OF THE MOTION.**

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
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

_____,

v

_____,

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

Index No.: _____

PLEASE TAKE NOTICE that, upon the annexed affidavit sworn to on the _____ day of _____, 20 ____, a motion will be made to this Court, on the _____ day of _____, 20 ____, in the City of Albany, New York for an order granting the appellant/petitioner permission to proceed as a poor person.

Dated: _____

(Signature) _____

(Print Name) _____

(Address) _____

(Your name, address and telephone number)

DIN # (if applicable) _____

(Telephone) _____

PLEASE TAKE NOTICE that, pursuant to section 800.2 (a) of the Rules of this Court, this motion will be submitted on the papers, and the personal appearance of counsel or the parties is neither required nor permitted.

AFFIDAVIT IN SUPPORT OF MOTION

STATE OF NEW YORK

COUNTY OF _____ ss.:

1. What is your full name?

2. What is the nature of the above-entitled action or proceeding?

3. In the event you have taken an appeal to this Court, 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. a. An order or judgment has been entered in the Court Clerk's Office on

_____, 20__.

b. A copy of that order or judgment was served on me on _____, 20__.

c. Have you filed a copy of any notice of appeal in the County Clerk's office? Yes ___ No ___

If yes, when? _____

d. If yes, have you served a copy of the notice of appeal on the respondent(s)?

Yes ___ No ___ If yes, when? _____

e. Were you represented by counsel? _____

Counsel's name and address: _____

f. Was counsel assigned or retained? _____

5. If you were represented by retained counsel in the court below, state the name and address of the person who paid his/her* fee and the amount.

6. What relief are you seeking by this motion?

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

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

9. Are you: Single _____ Married _____ Separated _____ Divorced _____

10. 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.

11. Are you are employed? Yes _____ No _____ If yes, please state your weekly salary and provide the name and address of your employer. Please provide a copy of your most recent pay stub.

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

13. Do you receive support from anyone? Yes _____ No _____ If yes please provide the name, relationship, address and the amount of support provided to you.

14. Do you support anyone? Yes ____ No ____ If yes, please provide the name, relationship, address and the amount of support you provide.

15. Do you own real estate either by yourself or with someone else? Yes ____ No ____

If yes please provide the following information:

a. Other owner(s) (if any): _____

b. Location (street address, mailing address; Town, County, State):

c. Current value, including improvements: _____

d. Existing mortgages and/or liens (Attach additional sheet if required):

1. Name of bank, mortgagee or lien holder: _____

2. Balance due: _____

16. List the location and amount of any savings or checking accounts held in your name or jointly with others (Attach additional sheet if required):

<u>Location (Bank)</u>	<u>Type</u>	<u>Owners</u>	<u>Balance</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

17. List any stocks, bonds, trusts or cash on hand owned by you in which you have any benefit and give the type, location and value of each (Attach additional sheet if required):

18. Please state the year, make model and value of any motor vehicle(s) owned by you and the

amount of any existing loan(s): _____

19. Do you have any other assets not listed above? Yes _____ No _____

20. If yes, please describe the assets(s) and state the value (Attach additional sheet if required):

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

INCOME:

My salary _____

My spouse's earnings _____

Other income _____

TOTAL _____

EXPENSES:

Rent or mortgage payment _____

Food _____

Utilities (heat, telephone, water, electric, cable) _____

Automobile expenses _____

Premiums on life or medical insurance policies _____

Repayment of loans _____

Name of creditor and amount _____

Other obligations, including alimony /support _____

TOTAL _____

22. 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? _____

23. Do you authorize the Court to make any inquiries or investigation concerning the answers given by you in this affidavit? Yes _____ No _____

24. Did someone else complete this form on your behalf?
Yes ___ No ___

25. If "yes" to question 24, were the questions and answers read to you and are your answers true?
Yes ___ No ___

(Signature)

(Print Name)

Sworn to before me this _____
day of _____.

Notary Public

AFFIDAVIT OF SERVICE OF MAILING

STATE OF NEW YORK)
COUNTY OF _____) ss.:

_____, being duly sworn, deposes and says:

On the _____ day of _____, 20____, I served a true copy of the annexed notice of motion and supporting affidavit 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 addressee(s) as indicated below:

(Insert here the name[s] and address[es] of the person[s] to whom you are mailing the papers being filed with this court. If necessary, attach extra pages for additional names and addresses.)

Name & Address	Name & Address

(Signature) _____
(Print Name) _____

Sworn to before me this _____
day of _____, _____.

Notary Public