



State of New York
Supreme Court, Appellate Division
Third Judicial Department
P.O. Box 7288, Capitol Station
Albany, NY 12224-0288

Robert D. Mayberger
Clerk of the Court

(518) 471-4777
fax (518) 471-4750
<http://www.nycourts.gov/ad3>

**INSTRUCTIONS FOR A PRO SE APPELLANT
TO PERFECT A CIVIL APPEAL**

Complete copies of the rules governing appellate practice referred to throughout these instructions can be found on the court's website.

GETTING STARTED:

In order to perfect an appeal to this Court, the following steps must be taken:

- The order or judgment being appealed from must be entered in the proper Clerk's Office. In most instances, entry is a task completed by the prevailing party who then must serve a copy of the order/judgment with notice of entry.
- Once you receive the order/judgment with notice of entry, you have 30 days to file a Notice of Appeal and Initial Informational Statement with the court of original instance (i.e., the court where the case began). A copy of those two documents must also be sent to the attorney for all parties involved or the parties themselves, should they be pro se. It is also helpful if you keep a copy for your personal records.

A sample Notice of Appeal and a sample Initial Informational Statement appear on the Court's website for your convenience.

- Once the Notice of Appeal is filed, you have six months from the date on the document to perfect the appeal (see Rule 1250.9 [a]). Also, the rules contain a provision by which the six-month period to perfect your appeal may be extended (see Rule 1250.9 [b]).

PERFECTING AN APPEAL:

To perfect the appeal, the appellant must provide the court with an original and six hard copies of a stipulated Record on Appeal and a signed original and six copies of an Appellant's Brief. In the alternative, an appellant may file a single copy of a stipulated Record on Appeal and a signed original and six copies of an appellant's brief and appendix. Please note, one of your six copies of each document should be unbound while the other five copies should be securely fastened on the left-hand side. The particulars relevant to these steps are discussed in detail below. A filing fee of \$315 (bank check or money order payable to "State of New York") is also required.

THE RECORD ON APPEAL MUST CONTAIN THE FOLLOWING DOCUMENTS:

- A Cover Page
- A Table of Contents
- A CPLR 5531 Statement
- A copy of the judgment or order being appealed
- All of the papers that were before the lower-court judge when he or she rendered the judgment or order being appealed. Many judges list the papers they considered on the last page of the order and this will serve as a helpful guide when compiling your record.

Once you have completed your Record on Appeal, you must send a copy to the respondent's attorney and ask them to stipulate to its correctness. Once they have signed the Stipulation as to the Correctness of the Record, then you proceed to make the necessary copies. The signed Stipulation will serve as the last page of your Record on Appeal.

THE APPELLANT'S BRIEF MUST CONTAIN THE FOLLOWING DOCUMENTS:

- A Cover Page
- A Table of Contents
- Statement of Facts
- Questions Presented
- Points of Argument
- Conclusion - which must be signed
- A Printing Specifications Statement

BRIEF FORMAT:

- Handwritten or Typed (Times New Roman 14-point font)
- If typed: Times New Roman, 14-point font, double spaced, one-inch margins, 14,000 word maximum
- Pages must be numbered in a single consecutive series
- Any cites in the brief must be to page numbers of the Record on Appeal (as well as the Appendix where one is used).

Appellant's Brief is the document that will contain your legal argument and will point to the pages of the Record on Appeal and/or the Appendix that support the argument.

FILING & SERVING THE RECORD ON APPEAL & BRIEF:

As mentioned above, a total of seven copies of a Stipulated Record on Appeal and Appellant's Brief must be sent to this Court (see Rule 1250.9 [a]). Pursuant to rule 1250.10 (a) of the Statewide Appellate Practice, these documents must be served and filed within six months of the date on the Notice of Appeal. The Record on Appeal and briefs should be mailed as follows:

Original + Six Copies: Appellate Division, Third Department
P.O. Box 7288, Capitol Station
Albany, New York 12224-0288

One Copy: **ALL** parties listed on the lower-court's decision

Please be advised that written proof of mailing or personal delivery is required. Such proof can be provided by completing an "Affidavit of Service of Mailing" or an "Affidavit of Personal Service," which should then be sent to the court.

Also, the rules contain a provision by which the six-month period to perfect your appeal may be extended (see Rule 1250.9 [b]).

Please remember, we are a review Court and can only consider those documents that were before the lower court. This court cannot see any new evidence or review any papers that were not before the lower-court judge when the decision was rendered.

WHAT TO EXPECT AFTER THE FILING OF AN APPELLANT'S BRIEF:

After the appellant's submissions have been served, all respondents have 30 days within which to file their responsive briefs (see Rule 1250.9 [c]). Similar to the extensions available to an appellant in need of additional time to perfect their appeals, the rules contain a provision by which respondents may extend their time to file their responsive briefs (see Rule 1250.9 [g]). Within ten days of service of respondent's brief, the appellant may but is not required to file an original and six copies of a reply brief with proof of service upon all parties.

Oral argument is permitted and should be requested on the cover of Appellant's Brief. If oral argument time is not requested, the appeal will be submitted to the Court on all the papers filed. When the Court's decision and order is rendered, a copy will be made available on the Court's website. Decisions are available each Thursday by noon.

If the outcome of this Court's decision is not in the favor of the appellant, a further appeal to the Court of Appeals may be taken only by permission except as provided in CPLR 5601. Written application must be made either to this Court or directly to the Court of Appeals within 30 days from service of Notice of Entry of this Court's decision and order upon appellant.

PLEASE BE ADVISED:

Please take note that the Court's written decision, which may set forth the facts of your case, is a public document and will be posted to the Court's website on the day it is released. Because it will appear on the internet, you should be aware that it is searchable and may be viewed by anyone.

We hope that you find these instructions helpful. If you require any additional information, please feel free to call the Clerk's Office at (518) 471-4777.

Docket No. _____

10 minutes oral argument requested

Or To be Submitted

STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

JOHN SMITH,

Appellant,

v.

Index No.:

JANE DOE,

Respondent,

APPELLANT'S BRIEF

(Name)

(Address)

(Telephone)

APPELLANT'S BRIEF
TABLE OF CONTENTS

Page No.

- I. Table of Authorities.....
- II. Preliminary Statement.....
- III. Questions Presented

A concise statement, not exceeding two pages, of the questions involved without names, dates, amounts or particulars. Each question shall be numbered, set forth separately and followed immediately by the answer, if any.

- IV. Statement of Facts

A concise statement of the nature of the case and the facts which should be known to determine the questions involved. The Statement of Facts should be accurate, concise, comprehensive and organized in such a way that the issues will be easily understood, with supporting references to pages of the Record on Appeal or the appendix.

- V. Argument
- Appellant's argument, divided into points by appropriate headings (and subheadings if desired).*

- a. POINT I - (Identify).....
- b. POINT II - (Identify).....

- VI. Conclusion
- Appellant must sign the conclusion page.*

***** Use this outline as a guide to assist you in the composition of the brief*****
STATE OF NEW YORK
APPELLATE DIVISION

SUPREME COURT
THIRD DEPARTMENT

JOHN SMITH,

Appellant,

v.

Index No.:

JANE DOE,

Respondent,

Preliminary Statement:

Here, provide a brief summary of the history of the matter including information such as the date of the decision being appealed and what the trial court determined in that decision.

1. Questions Presented:

State the questions which this Court must decide.

2. Statement of Facts:

State the facts which are relevant to the issue presented. Reference documents from the Record on Appeal to support any statements.

3. Points of Argument:

Here state the appellant's points of argument in which the trial court may have erred in its decision.

4. Conclusion:

Briefly state why the trial court's decision should be reversed. Define precisely the relief and corrective action sought by the appellant.

**You must sign brief in accordance with the Rules of the Chief Administrator (see 22 NYCRR 130.1.1-a). When filing your brief, one copy must contain your original signature, the other copies should be a copy of your signature. Your brief must also contain references to the page numbers of your Record on Appeal and/or Appendix (see CPLR 5528 [a] [3]).*

AFFIDAVIT OF SERVICE OF MAILING

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

_____, being duly sworn, 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.

*****Below fill-in 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	

(Signature)

(Print name)

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

(Notary Public)