

**KINGS COUNTY SUPREME COURT
HELP CENTER – ROOM 123
360 ADAMS STREET
BROOKLYN, NY 11201**

This summary will **BRIEFLY** describe how to commence a civil action. It is not intended to be a substitute for legal research or representation. **ANYONE INTERESTED IN BEGINNING A LAWSUIT IS STRONGLY ENCOURAGED TO SEEK LEGAL COUNSEL. THE HELP CENTER CANNOT PROVIDE YOU WITH LEGAL ADVICE OR COMPLETE FORMS ON YOUR BEHALF.**

HOW TO COMMENCE A CIVIL ACTION

Generally, you may commence a civil action in this court to obtain money damages or some other form of relief from a private person or entity (i.e., a corporation) whose actions have resulted in a violation of your rights. The action is commenced when the party alleging harm (plaintiff) files either a **summons and complaint** or a **summons with notice** with the court. The summons invokes the jurisdiction of the court and provides notice to the alleged wrongdoer (defendant) of the reason why he is being sued. Accordingly, the summons **MUST** be served with either a complaint or a short explanation (“notice”) describing the nature of the action and the relief being sought.

The Summons and Complaint

The summons must contain the following information: the name of the court; the caption box containing the names of the parties; the index number assigned by the court; the date the summons is filed with the County Clerk’s Office (**Room 189**); the name, address and telephone number of the plaintiff or his/her attorney; the name and address of the defendant(s). **Please refer to Exhibit A for a copy of a summons.**

The **complaint** provides the details about the plaintiff’s claim(s) against the defendant(s). It must describe the legal basis for each claim by stating the elements of each cause of action, how the defendant’s behavior or inaction caused harm, and what compensation plaintiff is entitled to receive. The facts should be recited clearly, concisely, and chronologically, providing specific dates and places. Keep in mind that the court is unaware of the facts of the case except insofar as they are provided in the complaint. Accuracy is important as errors may prove damaging to your case.

Your complaint should conclude with a paragraph describing all of the relief you are seeking from the court. The court has the authority to grant many different forms of relief. For example, the court can order the defendant to pay a sum of money, called **damages**, to the plaintiff to compensate for any injuries sustained. The court can also provide **injunctive relief** by ordering the defendant to act or refrain from action in a particular way. In an action seeking **declaratory relief**, the court determines the rights of each party in a dispute.

In certain actions, such as matrimonial cases, the complaint must contain a verification - that is, the plaintiff must swear to the truth of the allegations contained in the complaint. The rules regarding verifications are explained in Section 3020 of the Civil Practice Law and Rules.

The complaint (and all other documents submitted to this court) must be in the proper form. It must be typed or legibly printed in English, black ink, double-spaced, using 8½ by 11 inch (letter-sized) paper and using one side of the paper only. The papers should be stapled or securely bound (CPLR 2101). All allegations should be set forth in separate, numbered paragraphs each containing only one relevant and meaningful allegation. The complaint should also begin by briefly describing the plaintiff and defendant(s). For specific rules regarding the format and content of the complaint and other documents, consult Article 30 of the Civil Practice Law and Rules. **Please refer to Exhibit B for a sample complaint.**

Summons with Notice

The plaintiff can also commence an action with a **summons with notice**. The summons with notice will contain all of the same information listed above but will also include a brief description of the nature of the case and the relief being sought. Thus, the summons with notice is not accompanied by a complaint. **Please refer to Exhibit C for a copy of a summons with notice.**

The Index Number

Once the summons with complaint **OR** summons with notice is completed, the plaintiff must commence the action by purchasing an index number (used to identify the case) at the County Clerk's Office (for \$210.00) and filing the original documents) with the court. The index number and date of filing of the summons must be included on the summons **before** the defendant is served. The plaintiff has 120 days from the date the index number is purchased to serve the summons and complaint or summons with notice on the defendant (CPLR 306-b). If the plaintiff cannot afford to pay the court fees required to proceed with the lawsuit, he or she can apply to the court for an order waiving those costs. This request is known as a **poor person order**. The order will only excuse the plaintiff from paying fees normally charged by the court, not other costs that may arise during the course of the lawsuit. **You can request a poor person order from the Help Center, Room 123 or obtain a downloadable copy from the court website.**

Service of the Summons and Complaint or Summons with Notice

Basic notions of fairness require that the defendant be notified of the lawsuit so that they have the opportunity to put forth a defense. This notification process is known as "service". The plaintiff must have all defendants in the case served with the summons and complaint or summons with notice and then file proof of that service with the County Clerk's Office. Failure to file proof of service may result in dismissal of the case.

For more information on service, request a copy of the “How to Serve Legal Papers” packet from the Help Center, Room 123 or obtain a downloadable copy from the court website.

The Defendant’s Response

Once served, the defendant has 20 to 30 days to “appear” or to serve the plaintiff with a responding document. The time in which to respond depends on where and how the defendant is served (CPLR 320). If the defendant is served with a summons and complaint, the responding document can be an “answer” or a motion for dismissal of the complaint. If the defendant is served with a summons with notice, the responding document is called the “notice of appearance and demand for the complaint”. The plaintiff has 20 days from the date he or she receives the demand to serve the defendant with a complaint.

Requests for Judicial Intervention

Although the lawsuit is commenced by the filing of the summons and complaint or summons with notice, the case will not be assigned to a judge until one of the parties files a **Request for Judicial Intervention (RJI)**. The first time a party needs judicial consideration of an issue in the lawsuit, he or she is required to purchase (for a \$95.00 fee) and file a Request for Judicial Intervention. In most instances, the first time a case will come before the court is when a motion is made. A motion is an application to the court for an order resolving a dispute between the parties that occurs during the course of the lawsuit. The first motion made must contain a copy of the Request for Judicial Intervention form. **Please refer to Exhibit D for a Request for Judicial Intervention (RJI) form.**

EXHIBIT A

INSTRUCTIONS: FILL IN THE NAMES IN THE BOX NUMBER BELOW, THE INDEX NUMBER AND THE DATE THE INDEX NUMBER WAS PURCHASED. COMPLETE ALL BLANKS IN ACCORDANCE WITH THE DIRECTIONS SET FORTH IN BOLD PRINT.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS

-----X

[YOUR NAME(S)]

Plaintiff(s),

Index No. _____ / _____

- against -

_____, 20_____
[PURCHASE DATE OF INDEX #]

[NAME OF PERSON(S) BEING SUED]

SUMMONS

Defendant(s)

-----X

To the Person(s) Named as Defendant(s) Above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff(s) herein and to serve a copy of your answer on the plaintiff(s) at the address indicated below within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: _____, 20_____
[DATE OF SUMMONS]

[YOUR NAME(S)]

[YOUR ADDRESS(ES) & PHONE #(s)]

Defendant's Address: _____
[ADDRESS OF PERSON(S) SUED]

Venue: Plaintiff(s) designate(s) Kings County as the place of trial. The basis of this designation is [CHECK ONE]:

☐

Plaintiff(s)' Residence in Kings County.

☐

Defendant(s)' Residence in Kings County.

☐

Other -- Describe: _____.

NOTE: THIS FORM OF SUMMONS MUST BE SERVED WITH A COMPLAINT

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

JOHN JONES,

Plaintiff

Index NO. 700130/15

-against

GEORGE SMITH

Defendant

COMPLAINT

TO THE SUPREME COURT OF THE STATE OF NEW YORK

The complaint of the plaintiff, John Jones, respectfully shows and alleges as follows:

1. The plaintiff herein, John Jones, is a resident of the State of New York. Mr. Jones resides at 32 Barbary Coast Place, New York, New York.
2. The defendant herein, George Smith, has a principal place of business at 522A Fifth Avenue, New York, New York. Defendant is engaged in the business of building sailboats.
3. Plaintiff Jones desired to have a small sailboat built, pursuant to design prepared by him. He and defendant discussed his needs and specifications for this project.
4. On March 1, 2015, plaintiff and defendant entered into a written agreement. Pursuant thereto, plaintiff agreed to pay the sum of \$90,000 for the sailboat. Plaintiff was obligated to make a down payment of \$10,000 on or before April 1, 2015, with the balance to be due upon delivery of the boat. The defendant agreed to build the boat in accordance with plaintiff's design for the aforesaid price, and to complete the work and deliver the boat to a fixed place on or before July 15, 2015.
5. On March 8, 2015, plaintiff delivered to defendant a certified check in the sum of \$10,000, which defendant cashed.
6. Defendant failed to deliver the boat on or before July 15, 2015, as agreed. Plaintiff made numerous phone calls and sent several letters to defendant about the contract but received no response.
7. By reason, of the facts and circumstances stated above, defendant has breached the contract.

8. By reason of the facts and circumstances stated above, plaintiff has been damaged by defendant in the sum of \$40,000. WHEREFORE, plaintiff demands judgement against defendant in the sum of \$40,000, plus interest from July 15, 2015, costs and disbursements, together with any other relief the Court finds to be just and proper.

Dated: January 4, 2016

John Jones [PRINTED]
Plaintiff
32 Barbary Coast Place
Brooklyn, New York 11218
212-555-5151

VERIFICATION

John Jones, being duly sworn, deposes and says:

I am the plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief as to those matters I believe them to be true.

John Jones [SIGNATURE]
John Jones [PRINTED]
Plaintiff

Sworn to before me this
15th day of January 2016

William Brown
Notary Public

EXHIBIT C

INSTRUCTIONS: PRINT IN BLACK INK TO FILL IN THE SPACES NEXT TO THE INSTRUCTIONS. BOTH PAGES MUST BE COMPLETED. THIS SUMMONS CANNOT BE USED FOR DIVORCE ACTIONS.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X

[YOUR NAME(S)]

Plaintiff(s)

Index No. _____/_____

-against-

_____, 20_____
[PURCHASE DATE OF INDEX #]

[NAME(S) OF PERSONS BEING SUED]

Defendant(s)

SUMMONS WITH NOTICE

-----X

To the Person(s) Named as Defendant(s) Above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff(s) herein and to serve a copy of your answer on the plaintiff(s) at the address indicated below within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: _____, 20_____
[DATE OF SUMMONS]

[YOUR NAME(S)]

[YOUR ADDRESS(ES) & PHONE #(s)]

Defendant's Address:

[ADDRESS OF PERSON(S) SUED]

Notice: The nature of this action is **[briefly describe the nature of your case against the defendant(s), such as, breach of contract, negligence]:**

The relief sought is **[briefly describe the kind of relief you are asking for, such as, money damages of \$25,000]:**

Should defendant(s) fail to appear herein, judgment will be entered by default for the sum of _____ **[AMOUNT OF MONEY DEMANDED]**, with interest from the date of _____ **[DATE FROM WHICH INTEREST ON THE AMOUNT DEMANDED IS CLAIMED]** and the costs of this action.

Venue:

Plaintiff(s) designate Kings County as the place of trial. The basis of this designation is **[CHECK BOX THAT APPLIES]:**

- ☐ Plaintiff(s) residence in Kings County
- ☐ Defendant(s) residence in Kings County
- ☐ Other [See CPLR Article 5]: _____

EXHIBIT D



REQUEST FOR JUDICIAL INTERVENTION

UCS-840
(rev. 11/24/2022)

_____ COURT, COUNTY OF _____

Index No: _____ Date Index Issued: _____

For Court Use Only:

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

IAS Entry Date

Plaintiff(s)/Petitioner(s)

Judge Assigned

-against-

Defendant(s)/Respondent(s)

RJI Filed Date

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERCIAL

Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
Contract
Insurance (where insurance company is a party, except arbitration)
UCC (includes sales and negotiable instruments)
Other Commercial (specify): _____

NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the **COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)**.

MATRIMONIAL

Contested

NOTE: If there are children under the age of 18, complete and attach the **MATRIMONIAL RJI ADDENDUM (UCS-840M)**.

For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (**UD-13**).

REAL PROPERTY

Specify how many properties the application includes: _____

Condemnation

Mortgage Foreclosure (specify): Residential Commercial

Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the **FORECLOSURE RJI ADDENDUM (UCS-840F)**.

Partition

NOTE: Complete and attach the **PARTITION RJI ADDENDUM (UCS-840P)**.

Tax Certiorari (specify): Section: _____ Block: _____ Lot: _____

Tax Foreclosure

Other Real Property (specify): _____

TORTS

Adult Survivors Act
Asbestos
Environmental (specify): _____
Medical, Dental or Podiatric Malpractice
Motor Vehicle
Products Liability (specify): _____
Other Negligence (specify): _____
Other Professional Malpractice (specify): _____
Other Tort (specify): _____

SPECIAL PROCEEDINGS

Child-Parent Security Act (specify): Assisted Reproduction Surrogacy Agreement
CPLR Article 75 – Arbitration [see **NOTE** in **COMMERCIAL** section]
CPLR Article 78 – Proceeding against a Body or Officer
Election Law
Extreme Risk Protection Order
MHL Article 9.60 – Kendra's Law
MHL Article 10 – Sex Offender Confinement (specify): Initial Review
MHL Article 81 (Guardianship)
Other Mental Hygiene (specify): _____
Other Special Proceeding (specify): _____

OTHER MATTERS

Certificate of Incorporation/Dissolution [see **NOTE** in **COMMERCIAL** section]
Emergency Medical Treatment
Habeas Corpus
Local Court Appeal
Mechanic's Lien
Name Change/Sex Designation Change
Pistol Permit Revocation Hearing
Sale or Finance of Religious/Not-for-Profit Property
Other (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

YES NO

Has a summons and complaint or summons with notice been filed?

If yes, date filed: _____

Has a summons and complaint or summons with notice been served?

If yes, date served: _____

Is this action/proceeding being filed post-judgment?

If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

Infant's Compromise

Extreme Risk Protection Order Application

Note of Issue/Certificate of Readiness

Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined: _____

Notice of Motion Relief Requested: _____ Return Date: _____

Notice of Petition Relief Requested: _____ Return Date: _____

Order to Show Cause Relief Requested: _____ Return Date: _____

Other Ex Parte Application Relief Requested: _____

Partition Settlement Conference

Poor Person Application

Request for Preliminary Conference

Residential Mortgage Foreclosure Settlement Conference

Writ of Habeas Corpus

Other (specify): _____

RELATED CASES				
List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the RJI ADDENDUM (UCS-840A) .				
Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES				
For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the RJI ADDENDUM (UCS-840A) .				
Un-Rep	Parties	Attorneys and Unrepresented Litigants	Issue Joined	Insurance Carriers
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	
	Name: Role(s):		YES NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: _____

Signature

Print Name

Attorney Registration Number