

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

**HELP CENTER
Room 116
646-386-3025**

How to File a Proposed Order to Show Cause

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

A **Proposed Order to Show Cause (OSC)** is a request for a court order that can only be made after a lawsuit has been started.

The party (plaintiff or defendant) presenting the Proposed Order to Show Cause is known as the **movant**.

What You Need to Know

Motion Fee

- There is a **\$45** fee to file a Proposed OSC with the court.

Pay by cash, Visa/MasterCard/American Express, or postal money order made out to "New York County Clerk."

Judicial Intervention Fee

- 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 or other judicial action.

If you are unable to pay this fee, ask in Room 116 about requesting a **Poor Person Order**, which will allow you to file without paying these fees.

Notice

- Notice of the signing of an Order to Show Cause must be given to the other parties to the case. See below.

When You File a Proposed Order to Show Cause:

- Judge picks the date to come to court. An OSC is a court order that must be signed by a Judge before it is served upon the opposing party.
- Request an OSC only if your request requires immediate action or you seek a stay.

- You may ask for a **Temporary Restraining Order (TRO)** to **stay** (stop) an action being taken by a party. See **Note below on this page**. (Speak to a Clerk in Room 116 about the paperwork for a TRO).

Notifying the Other Parties

- After the Judge has signed the Proposed OSC, you are required to have all parties to the lawsuit notified that you are making an OSC. This is done by having someone over the age of 18, who is not a party in the case, give a copy of the OSC papers to each party (or a party's attorney, if he or she as one). This is known as **service** of the papers. You cannot serve your own papers.
- OSC papers may be required to be personally served. (You may write the OSC in a manner which would allow an alternative means of service, but the Judge must approve it.)
- You may be required to appear in front of the Judge on the return date.

To Submit a Proposed Order to Show Cause (OSC)

Fill out the papers listed below:

- Proposed Order to Show Cause (OSC)
- Affidavit in Support with Exhibits
- Litigation Back
- Request for Judicial Intervention (RJI) - If the case has not been assigned to a Judge.

Note: 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 (an order that stops an action being taken by the defendant) until a Judge hears the case may start a lawsuit and submit a Proposed OSC on the same day. If you intend to do this, ask for detailed written instructions at the Help Center. See How to Commence a Civil Action and How to Serve Legal Papers, available in Room 116.

Proposed Order to Show Cause (OSC) - This form is a court order that only becomes effective when the Judge signs it. If signed, the Judge picks the date to come to court, known as the **return date**, time and courtroom. Note: the Judge could also determine that there is no return date in the courtroom, but he or she will make a decision based on the papers submitted. 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.

Affidavit in Support (see attached) - The affidavit is your sworn statement and it must fully explain your request. You will not speak to the Judge, unless he or she wants "oral argument." 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 notary in the County Clerk's Office, 60 Centre Street, Room 141B, in the basement (no fee is charged).

Litigation Back - 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, an RJI **must** be filed, and the \$95 fee must be paid.

Filing the Proposed 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:
 - 1st Request for Judicial Intervention (RJI), if the case is not assigned to a Judge.
 - 2nd Order to Show Cause (OSC).
 - 3rd Affidavit in Support.
 - 4th Exhibit A, B, C, and so on.
 - 5th Litigation Back

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 if necessary).

Submitting the Order to Show Cause (OSC) Papers to the Court

For matrimonial cases (confidential by law) - 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 and the person by name and he or she must show photo I.D.

- Go to the Ex Parte Office, 60 Centre Street, Room 315, 3rd 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, 1st 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). The Clerk in Room 315 will give you further instructions.

- After the Order to Show Cause (OSC) is signed:
 - A complete copy of the OSC, the affidavit in support and all exhibits must now be served, with a copy of the RJI (if filed with the proposed OSC papers).

 - In the OSC the Judge will fix 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.

 - The 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 one (1) day before the return date by mail.

 - If the Judge directs “oral argument,” that will be noted on the OSC and you and the other side will speak to the Judge about your OSC on the return date.

 - The Judge may permit you to file a **Reply**, which is your response only to what a party has said in opposition papers. If such permission is not noted on the OSC, you cannot submit a Reply.

- **Important:** Now update your copy of the original OSC papers by replacing the unsigned proposed 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 Preparing and Submitting the Affidavit of Service

- The server gives to each party’s attorney, if the party has one, or, if not, to each party a copy of the signed OSC and all attached papers that were submitted to the Judge (and a copy of the RJI, if also filed) by personal service or in the manner directed by the Judge in the OSC and within the deadline fixed by the Judge. 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. This Affidavit should be delivered to the court on the return date or as otherwise specified in the OSC. Make a copy for your records.

[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 _____, 20__

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 _____, 20__

[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 _____, 20__ 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]: _____

for the reasons that [***briefly describe the reasons why you should be granted what you are requesting***]

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 other parties to this action or their attorneys, who have appeared in this action, on or before the ____ day of _____, 20____ 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.

[Print in black ink all areas in bold letters]

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

-----x

Index Number

_____,
[fill in names(s)] Plaintiff(s)/Petitioner(s),

- against -

AFFIDAVIT IN SUPPORT

_____,
[fill in name(s)] Defendant(s)/Respondent

-----x

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

_____ **[your name]**, being duly sworn, deposes and says:

1. I am **[circle one]** the plaintiff/ petitioner/ defendant/ respondent 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. Attach, identify, and explain any Exhibits (documents) you wish to submit to the court in support of your position. Add more pages if needed.]** _____

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

-----X

Index Number

[fill in name(s)] Plaintiff(s)/Petitioner(s),

- against-

AFFIDAVIT OF SERVICE AFTER
COMMENCEMENT OF LITIGATION

[fill in name(s)] Defendant(s)/Respondent(s).

-----X

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] _____, 20__, 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 - 61 years |
| | <input type="checkbox"/> 5'9" - 6'0" | <input type="checkbox"/> 161 - 200 lbs. | <input type="checkbox"/> Over 61 years |
| | <input type="checkbox"/> Over 6' | <input type="checkbox"/> Over 200 lbs. | |

Color of skin [describe] _____ 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 _____, 20__

[sign your 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 _____, 20__

Dated: _____ Yours, etc.
Attorney for: _____
_____ 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 court, at _____, on
_____, 20__ at _____ AM/PM.

Dated: _____, 20__ Yours, etc.

Presenting Party _____

To:
Attorney(s) for _____

INDEX NUMBER _____

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

In the Matter of the Application of _____,

Plaintiffs/Petitioners,
- 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: _____, 20__

Attorney for _____