

APPELLATE TERM, FIRST DEPARTMENT

Note: THIS GENERAL GUIDE DOES NOT SUPERSEDE THE PROVISIONS OF THE C.P.L.R OR THE RULES OF THE APPELLATE TERM.

APPEAL ON A FULL REPRODUCED RECORD FROM A JUDGMENT AFTER TRIAL

Five (5) sets of the record on appeal (8 1/2 x 11) must be presented to the Civil Court Appeals Clerk, with proof of service. Once the Appeals Clerk issues a "Clerk's Return" the appellant will file the record with the Appellate Term, along with the original transcript in a separate folder.

Record Must Include: (Note: In the sequence listed below.)

- Index (table of contents) - last pages of the index/table of contents will have a section titled "exhibits list." The list should indicate whether the exhibit was marked for identification or in evidence and the page of the record that the "in evidence" appears. Exhibits marked for I.D. only (and not the subject of the appeal), will have a blank page, stating at the top "marked for I.D. only - not reproduced."
- Statement pursuant CPLR 5531 (with title) - see rule on reverse side.
- Notice of Appeal
- Judgment on which notice of appeal is based.
- Decision or verdict
- Summon & Complaint (in L&T actions- Notice of Petition & Petition)
- Answer
- Bill of Particulars (if requested)
- Transcript of trial
- Exhibits: Identify each exhibit at the top of the page. State where introduced into evidence (pg. # of reproduced record). If the exhibits are not available, a copy a stipulation must be placed in the record, that either: a) the exhibits will be filed with the Clerk of the Court at the time of filing of the briefs; b) that the exhibits are not required for the appeal. As to missing exhibits - see other side.
- Stipulation of settlement or notice of settlement of transcript with proof of service.
- Statement of No Opinion (no other judicial opinion relating to the appeal)
- Attorney's Certification pursuant to CPLR 2105 or a stipulation waiving certification (a self-represented appellant will have the "certification" signed before a notary)
- Clerk's Return (inserted by Civil Court Appeals Clerk)

APPEAL ON A FULL REPRODUCED RECORD FROM AN ORDER ON MOTION

Five (5) sets of the record on appeal (8 1/2 x 11) must be presented to the Civil Court Appeals Clerk- see above.

Record Must Include: (Note: In the sequence listed below.)

- Index (table of contents)
- Statement pursuant CPLR 5531 (with title) - see rule on reverse side.
- Notice of Appeal
- Order on which the notice of appeal is based.
- Summon & Complaint & Answer (in L&T actions- Notice of Petition, Petition & Answer)
- Notice of Motion or Order to Show Cause
- Affidavits/Affirmations in support of motion, affidavit/affirmations in opposition & reply and papers attached or identified in the decision/order as considered by the Court (identify exhibits at top of page)
- Transcript of proceeding, if any, with stipulation or notice of settlement of transcript
- Statement of no opinion (no other judicial opinion relating to the appeal)
- Attorney's Certification pursuant to CPLR 2105 or a stipulation waiving certification (a self-represented appellant will have the "certification" signed before a notary)
- Clerk's Return (inserted by Civil Court Appeals Clerk)

APPEAL FROM A *SMALL CLAIMS* ACTION AND ON THE ORIGINAL RECORD (FILE)

- Request guide for perfecting Small Claims actions and for appeals on the original record.

RECORDS AND BRIEFS - IN GENERAL

Records and briefs are bound on the left-hand side and must have a substantial cover on the front and back. If staples are used for "binding", the staples must be covered with a vinyl or cloth tape. Clear plastic covers may be used for the front cover, back cover may be any color. No spiral binders. The covers must have the name of the Court of origin with index #, name of the action plus the appellant's and respondent's name and address. For the self-represented, our office will provide a photo copy of a sample cover (a fill in the "blanks" form) upon request. Appellant's and respondent's briefs are limited to 50 pages, reply briefs are a maximum 20 pages. Briefs must be of no less than fourteen (14) point type and be double spaced (See: A.D. Rule 22NYCR § 670.10.3(f)).

Five (5) copies of the Reproduced Record on Appeal and Five (5) copies of each brief (one with an original signature on the last page - considered the original) and the original "Notice of Argument" form must be filed with the Appellate Term along with proof of service. The Notice of Argument form places the appeal on the calendar for a certain term. If you wish oral argument, indicate "Oral Argument By: name" on the upper right-hand corner of the brief. The notice of argument is served with the appellant's brief as a separate document.

If records or briefs are served by mail, they must be mailed at least 5 days before the last day to file; if served by overnight delivery service, at least one day before the last day to file.

Do not attach exhibits or other material to your brief. Exhibits or testimony referred to in a brief must be accompanied by reference to the page of the reproduced record where such exhibits or testimony appear.

The pages of the reproduced record are numbered at the bottom center of the page. Page # 1 should be the "Statement pursuant to C.P.L.R 5531". Do not use letters "A" & "R", or any other letter, as prefix to numbers. If you plan to use the appendix method, contact the records clerk in Appellate Term office.

A heading, which labels or describes the document, must appear at the top of leading the page of each document. If the document (for example, an affidavit) is more than one page, state the type of document at the top of the page and list the first and last page of the document.

A memo of law in support of the an instant motion or trial is not normally part of the record. Any questions as to the inclusion of a memo of law should be referred to the Appellate Term office.

Index (table of contents) - The index should list each document in the reproduced record on appeal, including exhibits. If Exhibits are attached to motion papers, list each exhibit in the index.

Missing Exhibits - If your adversary refuses to provide exhibits marked in evidence, place a copy of the letter requesting said exhibits, with proof of service, in the reproduced record where the exhibit would normally appear.

Decisions and Orders - The record on appeal shall contain a signed copy of the order/decision and a typewritten copy of any handwritten opinion of the Civil Court which is to be reviewed on the appeal. The top of the typewritten opinion should state "typewritten copy of order & /or decision."

The copy of the reproduced record on appeal, with the original signature on the attorney's certification under C.P.L.R. 2105 will be marked "Original" on the top of the front cover.

C.P.L.R. 5531 - Description of Action (statement under rule 5531 of the C.P.L.R.)

The appellant shall file together with the record on appeal, in both criminal and civil actions, a statement containing the following information listed and numbered in the following order:

1. The index number of the case in the court below.
2. The full names of the original parties and any change in the parties.
3. The court and county in which the action was commenced.
4. The date the action was commenced and the dates which each pleading was served.
5. A brief description of the nature and object of the action.
6. A statement as to whether the appeal is from a judgment or an order or both, the dates of entry of each judgment or order appealed from, and the name of the judge or justice who directed the entry of judgment or made the order being appealed.
7. A statement as to the method of appeal being used: whether the appeal is on a full record, printed or reproduced,

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM, FIRST DEPARTMENT

-against-

NOTICE OF ARGUMENT

Note: this form places the appeal on the calendar for a certain term of the Court. If you wish oral argument, see instructions below.*

PLEASE TAKE NOTICE that the appeal in the above entitled action will be calendared for the _____ 200__ Term of this court.
(month)

The argument or submission of the appeal will be at the Supreme Court Building, courtroom # 408 at 60 Centre Street, N.Y. , N.Y. 10007 at 10 am. on the _____ day of _____ 200__ , or as soon thereafter as counsel can be heard, as scheduled by the Clerk of the Court.

If specifically noticed for oral argument - see below. No Courtroom appearance is required for an appeal that is submitted (no oral argument noted on the brief).

Dated:

Name of Appellant or Law Firm

Address

To: _____
Name of Attorney (or adversary, if unrepresented by counsel)

Address

Please Note: *If oral argument is desired, a notation must be placed in the upper right hand corner of **appellant's** brief stating - "oral argument by Name ". The date of oral argument is published in the NY Law Journal every day, commencing two weeks before the first day of the term, or the date may be obtained by calling the Appellate Term at (646) 386-3040.

Civil Court of the City of N.Y.
County of _____ ; Index #

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM, FIRST DEPARTMENT

- AGAINST -

Print Your Name

Address

To: _____
Name of Attorney (or adversary, if unrepresented by counsel)

Address

- GUIDE- (Complete bottom half of form)

State of New York, County of N.Y. (?) ss: (County in which Affidavit is notarized)

I, name of friend Being sworn, say; I am not a party to the action, am over 18 years of age and reside at address of friend

On Date mailed I served the within type of document (notice of motion & affidavit etc.)

Service by Mail - by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postel Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Personal Service on Individual - by delivering a true copy thereof personally to each person named below at the address indicated. I knew each person served to be the person mentioned and described in said papers as a party therein or the attorney for said party:

Note: Type or print the name of the individual or law firm served with address

Name of opposition or their attorney
Address

Signature of Friend

Sworn to before me on _____(Notary)



COMPLETE THIS PART



AFFIDAVIT OF SERVICE (PROOF OF SERVICE)

State of New York, County of _____ (County in which Affidavit is notarized)

I, _____ being sworn, say; I am not a party to the action, am over 18 years of age and reside at _____

On _____ I served the within _____

Service by Mail - by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postel Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Personal Service on Individual - by delivering a true copy thereof personally to each person named below at the address indicated. I knew each person served to be the person mentioned and described in said papers as a party therein or the attorney for said party:

Note: Type or print the name of the individual or law firm served with address

Sworn to before me on _____(Notary)

Signature of Friend (in front of notary)