

MOTION FOR LEAVE TO APPEAL IN A CIVIL CASE FORM FOR PRO SE LITIGANTS

THIS FORM IS FOR USE IN CIVIL MATTERS BY PRO SE LITIGANTS ONLY. For information on making an application for leave to appeal in a criminal matter, please see Court of Appeals Rules of Practice 500.20. If you have questions after reading the instructions, you may call the Clerk's Office at (518) 455-7700.

INSTRUCTIONS

1. READ COURT OF APPEALS RULES OF PRACTICE, particularly 500.1, 500.2, 500.3 (b), 500.6, 500.7, 500.8 (b), 500.21, 500.22 and 500.25.

2. COMPLETE THE ATTACHED MOTION FORM and attach the following documents to the motion form:

- a. The decision and order or judgment from which you seek leave to appeal. (This is usually, but not always, an Appellate Division order deciding an appeal at the Appellate Division).
- b. The lower court order or agency determination appealed to the Appellate Division.
- c. The Appellate Division order denying leave to appeal to this Court (if any).

Timeliness of the Motion

The motion form has a part called "Statement in Support of Motion." Fill out this checklist carefully and completely.

Strict statutory deadlines apply to motions for leave to appeal. The Court of Appeals does not have general authority to extend the time to make a civil motion for leave to appeal. A motion for leave to appeal must be served within thirty days (CPLR 5513 [b]) from service of the judgment or order sought to be appealed from, with written notice of entry. If a timely motion for leave to appeal to the Court of Appeals was made at the Appellate Division and denied, the motion to the Court of Appeals must be served within 30 days from service of a copy of the Appellate Division order denying the motion for leave to appeal, with written notice of its entry. For a more detailed discussion of timeliness, please refer to this Court's website (www.nycourts.gov/courts/appeals). Under References and Links, see the Court's Civil Practice Outline (Section II [E] [2]).

3. FINANCIAL RELIEF. There is a \$45 fee to make a civil motion for leave to appeal (see Rule 500.3 [b]). If you cannot pay the filing fee, you may request financial relief and submit proof of your current financial status or a copy of a court's order granting financial relief in this case and a statement that the same financial circumstances exist. If you request financial relief or continuation

of financial relief already granted by a court in this matter, you may serve and file only one copy of your motion papers, and you do not pay the filing fee.

4. SERVICE. To serve the motion, send a copy of the completed motion, with all attachments, to each other party. If any party is represented by an attorney, you must serve the attorney.

5. FILE WITH THE COURT OF APPEALS. Send to Clerk of the Court, 20 Eagle Street, Albany, NY 12207: (a) the original and one copy of your motion with the required attachments, (b) an affidavit of service, and (c) the \$45 motion fee in the form of a certified check, cashier's check or money order payable to "State of New York, Court of Appeals." If you are requesting financial relief, you do not pay the fee and you send the original of your motion with the required attachments and an affidavit of service.

6. DIGITAL SUBMISSION. After you file your motion, you will receive by mail a letter from the Clerk's Office. The letter will have instructions on how to provide additional documents in digital (PDF) format. After you receive the instructions letter, you will use the Companion Filing Upload Portal on the Court's website (www.nycourts.gov/ctapps) to upload the motion with all attachments, the briefs filed in the Appellate Division by each party and the record or appendix used in the Appellate Division. You do not have to serve the Appellate Division briefs and record or appendix on the other parties.

If it would be an undue hardship for you to submit digital filings, send a letter with your motion to the Clerk explaining the hardship and include unbound copies of each party's Appellate Division briefs and the Appellate Division record or appendix.

COURT OF APPEALS
STATE OF NEW YORK

(Names of parties as set forth in the Appellate Division caption)

_____,
_____,
*
v.
_____,
_____,
.*

County Clerk Index No.:

Appellate Division No.:

NOTICE OF MOTION FOR
LEAVE TO APPEAL TO
THE COURT OF APPEALS
[AND FOR (Specify additional
relief, if any) _____]
_____] **

PLEASE TAKE NOTICE that, upon the annexed statement pursuant to Rules 500.21 and 500.22 of the Court of Appeals Rules of Practice, signed on _____ day of _____, 20____,

_____ will move this Court, at the Court of Appeals Hall, Albany, New York on
(Your Name)

_____, 20____, for an order granting leave to appeal to this Court from the order
(Return Date)***

or judgment of the _____, dated _____, 20____
(Name of Court)

[, and for _____].
(Specify additional relief, if any)**

* If you are moving for leave to appeal, you are the appellant in this Court; the opposing party is the respondent.

** Add information within the brackets only if you are seeking relief in addition to leave to appeal.

*** Return Date (see Rule 500.21 [a], [b]). Court of Appeals motion returns dates are only on Mondays, unless Monday is a legal holiday, in which case the return date shall be on the next available business day. If the motion is served in person, you must give 8 days' notice. If the motion is served by regular mail, you must give 13 days' notice. Set the return date of your motion for the first Monday on or after the notice period. If that Monday is a legal holiday, set the return date of your motion for the next available business day.

Papers opposing the motion may be served and filed in the Court of Appeals with proof of service on or before the return date of the motion.

There is no oral argument of motions, and no personal appearances are permitted.

Signature: _____

Print Name: _____

Address: _____

Phone: _____

To: Clerk of the Court of Appeals
Court of Appeals Hall
20 Eagle Street
Albany, New York 12207

Insert the names and addresses of all other parties:

STATEMENT IN SUPPORT OF MOTION

Service of judgment or order sought to be appealed (check which items apply, and fill in the blanks, if applicable.)

SELECT AND COMPLETE (1), (2) or (3):

- (1) ☐ On _____, 20____, my adversary served me with the order or judgment I am seeking leave to appeal from dated _____, 20____, with notice of entry. My adversary served me by (check one):
- ☐ personal service
 - ☐ overnight delivery
 - ☐ regular mail
 - ☐ other (describe: _____)

- OR -

- (2) ☐ On _____, 20____, I served my adversary with the order or judgment that I am seeking leave to appeal from with notice of entry. I served my adversary by (check one):
- ☐ personal service;
 - ☐ overnight delivery;
 - ☐ regular mail
 - ☐ other (describe: _____).

- OR -

- (3) ☐ The order or judgment that I am seeking leave to appeal from was not served with notice of entry.

SELECT AND COMPLETE (4) or (5):

- (4) ☐ I did not move for leave to appeal to this Court at the Appellate Division but came directly to the Court of Appeals. (If you check this box, go directly to QUESTIONS PRESENTED.)

- OR -

- (5) ☐ I made a motion for permission to appeal to the Court of Appeals in the Appellate Division and I served my adversary with the motion on _____, 20____ by (check one):
- ☐ personal service;
 - ☐ overnight delivery;
 - ☐ regular mail;
 - ☐ other (describe: _____)

The Appellate Division denied my motion for permission to appeal to the Court of Appeals on _____, 20____.

IF YOU SELECTED (5), SELECT AND COMPLETE (6), (7), or (8)

- (6) ☐ On _____, 20____, my adversary served me with the Appellate Division order denying my motion for permission to appeal with notice of entry. My adversary served me by (check one):
- ☐ personal service
 - ☐ overnight delivery
 - ☐ regular mail
 - ☐ other (describe: _____)

- OR -

- (7) ☐ On _____, 20____, I served my adversary with the Appellate Division order denying my motion for permission to appeal. I served my adversary by (check one):
- ☐ personal service;
 - ☐ overnight delivery;
 - ☐ regular mail
 - ☐ other (describe: _____).

- OR -

- (8) ☐ The Appellate Division order denying my motion for leave to appeal was not served with notice of entry.

QUESTIONS PRESENTED *(The legal issues you addressed in the courts below that you are asking the Court of Appeals to review. Please identify where in the record or appendix these issues were raised in the courts below. You may use additional paper if necessary.)*

WHY THE COURT OF APPEALS SHOULD GRANT THE MOTION *(For example, novel issue of law, issue of statewide importance, conflict in the law on the issue. You may use additional paper if necessary.)*

DATED: _____

Signature: _____

Print Name: _____

Address: _____

Phone: _____

AFFIRMATION OF SERVICE

On _____ I, _____, a person over the age of 18 and not
(date) (name)

a party to this matter, served _____ copies of the attached _____ to the
(document(s) served)

following at their last known address(es) set forth below:

by the following method (choose one):

☐ personally delivering the papers and giving them to the following individual:

_____.

☐ mailing the papers enclosed in a sealed envelope, with postage prepaid thereon, in a post office or official depository under the exclusive care and custody of the U.S. Postal Service within the State of

_____.

☐ placing the papers in the custody of an overnight delivery service prior to the latest time designated by the overnight delivery service for overnight delivery.

I affirm, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Signature: _____

Print Name: _____

Date: _____