

## **HOW TO APPEAL A CIVIL or SMALL ClaimsS MATTER FROM A JUSTICE COURT TO THE WAYNE COUNTY COURT**

These guidelines are intended to help you understand the process through which your case can be reviewed on appeal.

An Appeal is not a new trial. It is only a review of the court proceedings of and documents from the Town or Village Court. You may only submit evidence which was presented at the trial or proceeding held in the Justice Court. In a Small Claims case, the standard for an appeal is if you believe that “substantial justice” was not done in the Justice Court.

The next page is a general checklist which will guide you through the process, step-by-step. However, please be sure to read the entire packet as you complete each task. It is also important to understand that the appeal process is complex and you may wish to hire an attorney.

If, after reading these instructions, you have any questions regarding the appeal process, you may contact the County Court Clerk’s office at 315-946-5459. The staff of the County Court may not provide legal advice or provide opinions about your case. The staff can only provide you with appeal procedures.

Note that the County Court has the discretion to extend filing time lines. A request to extend a filing deadline must be made in writing to the County Court.

You can not appeal a default judgment. If you did not appear in the local court for your case, you must file a motion with the local court to vacate the default judgment (CPLR § 5015 and § 5511).

If you still wish to proceed with the appeal, complete and serve the following paperwork:

**STEP I: FILE CIVIL NOTICE OF APPEAL and REQUEST RETURN ON APPEAL:**

- Complete Notice of Appeal form (attached) within 30 days (35 days if mailed) of service of the Judgment and Decision issued by the Justice Court (UJCA § 1703).
- Serve the Notice of Appeal on the Justice Court and pay filing fee (MAKE SURE YOU GET A RECEIPT)
- Serve the Notice of Appeal on the opposing party or opposing counsel
- Complete Affidavit of Service (attached) (To be completed by a person over 18 not a party to the action.)
- Complete the “No Fee” Index Number form (attached)
- Complete Request to Prepare Return on Appeal form (attached)
- Serve Request to Prepare Return on Appeal on Justice Court (Appellant will be notified of transcript costs)
- Complete Affidavit of Service-Request to Prepare Return on Appeal (attached)
- File Notice of Appeal, Affidavit of Service - Notice of Appeal, “No Fee”Index Number, Justice Court Receipt, Request to Prepare Return on Appeal, and Affidavit of Service - Request to Prepare Return on Appeal with the Wayne County Clerk.

**STEP II: SETTLEMENT CONFERENCE OF RETURN ON APPEAL (See detailed instructions in this packet)**

- Wait for Justice Court to prepare Return on Appeal and Court’s Summary or receive a copy of the Transcript. A copy of the Transcript is also sent by the Transcription Service to the Appellant.
- OPTION 1: The Justice Court may schedule a Settlement Conference; or
- OPTION 2:
  - If there is a Transcript of the Court proceedings, the Appellant serves the other party and Justice Court with Transcript and proposed amendments within 15 days. The other party serves Appellant and Justice Court with Transcript and proposed amendments and objections within 15 days thereafter.
  - If a Court Summary is issued, the Justice Court serves copies upon both parties. The parties have 15 days to serve amendments and objections upon the other party and the Justice Court.
  - Upon the request of either party or , the Justice Court to schedule Settlement of the Return Conference to confirm the accuracy of the Return on Appeal.
- In lieu of a Settlement Conference, the parties may elect to stipulate to the accuracy of the Transcript / Summary.
- Justice Court to file Return on Appeal with County Court.

**STEP III: NOTICE OF ARGUMENT AND BRIEF**

- County Court will notify parties of filing deadlines
- Complete Notice of Argument form (attached). Indicate if Oral Argument is or is not being requested
- Prepare Brief or Statement of Contentions
- Serve copy of Notice of Argument and Brief on opposing party or opposing attorney
- Complete Affidavit of Service-Notice of Argument (attached) and Brief
- File Notice of Argument, Brief and Affidavit of Service with the Wayne County Court
- The opposing party will have 12 days to file a written Reply. If a written Reply is received, the Appellant has 10 days to file a written Response and serve the written Response on the opposing party or attorney. An Affidavit of Service and written Response must also be filed with the County Court.
- If Oral Argument has been requested and granted, County Court will advise both parties of the court date.

**STEP IV: DECISION AND ORDER** Wait for Judge’s written Decision.



# Civil Appeal - Checklist

## **I. NOTICE OF APPEAL**

**Within 30 days (35 days if mailed) after the service of the Judgment and Decision issued by the Justice Court.**

- ▶ **Step 1: Complete the Notice of Appeal (form attached)**
- ▶ **Step 2: File the Notice of Appeal, by mail or personal service, with the Justice Court which issued the Decision and Order. A fee will be required. Save your receipt which will be needed when filing a copy of the Notice of Appeal with the County Clerk (Step 4):**
- ▶ **Step 3: Serve a copy of the Notice of Appeal, by mail or personal service, on the opposing party or parties or attorney(s) if the opposing party is represented by an attorney.**
- ▶ **Step 4: To continue (or perfect) the appeal, you should advise the Town or Village Court to prepare the Return on Appeal (see form). You must also serve the Return on Appeal Request form on the opposing party or opposing attorney and complete the accompanying Affidavit of Service. This form must be completed and filed with the Justice Court.**

**If a Court Reporter was present for the trial or if the proceedings were taped, you may be required to pay for the cost of the transcript. Otherwise, the Local Court Justice or Clerk will prepare the minutes or “synopsis” of the lower court proceedings pursuant to UJCA 1704(a).**

- ▶ **Step 5: File, by mail or personal service, the following documents with the:**

**Wayne County Clerk  
9 Pearl Street, Box 608  
Lyons, New York 14489**

- **Copy of the Notice of Appeal.**
- **Affidavit of Service (form attached). The Affidavit of Service is a sworn statement by someone other than the appellant, you, and is over the age of 18 who attests that a copy was provided to the opposing party or parties or opposing counsel either by mail or in person. The Affidavit of Service must be notarized.**
- **Request for a No Fee Index Number (form attached).**
- **Proof of payment of the fee paid to the Justice Court.**
- **The Request for Return on Appeal form and corresponding Affidavit of Service.**

**Throughout the appellate process, all documents which you file with the County Clerk and the County Court must also be served on the opposing party(ies) or opposing counsel and an Affidavit of Service filed with the County Clerk.**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

\_\_\_\_\_  
(Enter the original caption)

NOTICE OF APPEAL

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_  
TAKE NOTICE that the Appellant hereby appeals to the County Court of Wayne County  
from the Judgement rendered by the Justice Court of the  
( TOWN) (VILLAGE) of \_\_\_\_\_ rendered in the above-entitled  
matter on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Dated:** \_\_\_\_\_

To: 1. Wayne County Court  
9 Pearl Street, Box 608  
Lyons, New York 14489

\_\_\_\_\_  
(Name of Appellant)

2. \_\_\_\_\_  
(Name of Justice Court)

\_\_\_\_\_  
(Address of Appellant)

\_\_\_\_\_  
(Mailing Address of Justice Court)

\_\_\_\_\_  
(Telephone Number)

3. \_\_\_\_\_  
(Name of Opposing Party or Attorney of Record)

\_\_\_\_\_  
(Mailing Address)

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
OF NOTICE OF APPEAL

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following  
address: \_\_\_\_\_

2. On \_\_\_\_\_, 20\_\_\_\_, I served the within NOTICE OF APPEAL

upon \_\_\_\_\_ at \_\_\_\_\_ by:  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

and upon the (TOWN) (VILLAGE) Court of \_\_\_\_\_ by:  
(Name of Justice Court)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

Dated: \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the Wayne County Clerk, 9 Pearl Street, Lyons, NY 14489)**

**COUNTY CLERK, WAYNE COUNTY**

**Application for INDEX NUMBER pursuant to section 8018-A of the CPLR**

Index Number
--------------

**NO FEE APPLICATION (Justice Court Appeal)  
County Court, Wayne County**

**TITLE OF ACTION OR PROCEEDING  
(as listed on your original case in Justice Court)**

\_\_\_\_\_, **Plaintiff's Name**  
\_\_\_\_\_, **Plaintiff's Street**  
\_\_\_\_\_, **Plaintiff's City, State and Zip Code**

**Vs.**

\_\_\_\_\_, **Defendant's Name**  
\_\_\_\_\_, **Defendant's Street**  
\_\_\_\_\_, **Defendant's City, State and Zip Code**

**Name and address of Attorney for Plaintiff**

**Name and Address for Defendant**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACH TO THIS APPLICATION A COPY OF THE RECEIPT AS PROOF THAT YOU PAID THE APPROPRIATE APPEAL FILING FEE IN THE JUSTICE COURT.**

\*\*\*\*\*

**COMPLETE  
THIS STUB**

**County Court, Wayne County**

Index Number
--------------

\_\_\_\_\_, **Plaintiff**  
**Vs.**  
\_\_\_\_\_, **Defendant**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

\_\_\_\_\_  
(Enter the original caption)

REQUEST TO PREPARE RETURN ON APPEAL

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_  
To: Town / Village Court of \_\_\_\_\_

The undersigned Appellant having filed a Notice of Appeal hereby requests that the Town or Village Court of \_\_\_\_\_ prepare the Return on Appeal and notify the undersigned and the opposing party(ies) when the Return on Appeal may be reviewed and settled.

If a Court Reporter was present or if the matter was audio recorded and a transcript of the proceedings will need to be prepared, I understand that I will be responsible for the payment of two transcripts; one of which will be sent to me and the other will be filed with the Justice Court for inclusion in the Return on Appeal. **Please send me a list of transcribers. I understand that I will select a transcriber from the approved list and advise you of the same.**

Dated: \_\_\_\_\_

To: 1. Wayne County Court  
54 Broad Street  
Lyons, New York 14489

\_\_\_\_\_  
(Name of Appellant)

2. \_\_\_\_\_  
(Name of Opposing Party or Opposing Attorney)

\_\_\_\_\_  
(Address of Appellant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Telephone Number)

**(After service, file this completed form with the Wayne County Clerk, 9 Pearl Street, Lyons, NY 14489)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
REQUEST TO PREPARE RETURN ON APPEAL

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following  
address: \_\_\_\_\_

2. On \_\_\_\_\_, 20\_\_\_\_, I served the within

REQUEST TO PREPARE THE RETURN ON APPEAL

upon \_\_\_\_\_ at \_\_\_\_\_ by:  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

and upon the (TOWN) (VILLAGE) Court of \_\_\_\_\_ by:  
(Name of Justice Court)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

**Dated:** \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the Wayne County Clerk, 9 Pearl Street, Lyons, NY 14489)**

## **II. SETTLEMENT OF THE RETURN ON APPEAL:**

**At such time as you receive a copy of the Transcript, if any, or the Court's Summary or 'synopsis', the parties will have an opportunity to review the transcript and case file to determine the accuracy of the Transcript / Summary and submit corrections as well as review the documents that will be included in the Return on Appeal. This is done at a Settlement Conference and can be started in one of two ways. You may wish to contact the appropriate Justice Court to determine which method will be used.**

**Option 1. The Justice Court may notify the appellant and opposing party(ies) or opposing counsel that the Record may be reviewed at a Settlement Conference; or**

**Option 2. You will be required to comply with the settlement process as required by UJCA § 1704 as outlined below:**

- ▶ **Within 15 days after receipt of the Transcript, the Appellant shall make proposed amendments to the Transcript and serve them upon the opposing party or opposing party's attorney and the Court.**
- ▶ **The opposing party or his/her attorney will have 15 days to file written objections and propose his/her amendments and objections to the Transcript and serve them upon the Appellant and the Court.**
- ▶ **If there is no Transcript but only a Court Summary, the Appellant and the opposing party have 15 days to file written amendments and objections with the Court and the other party.**
- ▶ **If a Settlement Conference is requested, either party must notify the Justice Court, in writing.**

**In either option, either party may file a stipulation that the Return on Appeal is an accurate representation of the proceedings held in the Justice Court. If both parties stipulate that the Return is accurate, a Settlement Conference will not be scheduled.**

**Forms to assist with this process are on the next 4 pages.**

**Once the Record is settled, the Town or Village Court will complete and file the Return on Appeal with the Wayne County Court. The Court's Return on Appeal will consist of: the Summons or Notice of Petition, the Pleadings, Evidence submitted and received at trial, the Judgment or Order, the Notice of Appeal, and the "Synopsis" or Transcript, and all other relevant papers.**

**The Justice Court should mail a copy of the cover letter of the Return on Appeal to each of the parties or attorney(s) with a listing of the documents included in the Return on Appeal.**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

NOTICE OF PROPOSED CHANGES /  
STIPULATION OF ACCURACY

TRANSCRIPT

COURT'S SUMMARY

Docket No. \_\_\_\_\_

\_\_\_\_\_  
Vs.

\_\_\_\_\_  
I am the  Appellant  Appellee in the above referenced matter.

I have reviewed the Transcript / Court Summary in this matter.

I offer the attached amendments and proposed changes (attach the proposed changes) and serve a copy upon the Justice Court and the opposing party or attorney and do so within 15 days of receipt of the Transcript / Court Summary.

I accept the accuracy of the Transcript or Court's Summary to be a true representation of the proceedings held in the Justice Court.

Dated: \_\_\_\_\_

To: 1. Wayne County Court  
9 Pearl Street, Box 608  
Lyons, New York 14489

\_\_\_\_\_  
(Name)

2. \_\_\_\_\_  
(Name of Justice Court)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Mailing Address of Justice Court)

\_\_\_\_\_  
(Telephone Number)

3. \_\_\_\_\_  
(Name of Opposing Party or Attorney of Record)

\_\_\_\_\_  
(Mailing Address)

**(After service, file this completed form with appropriate Justice Court)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
NOTICE OF PROPOSED CHANGES TO  
TRANSCRIPT / COURT SUMMARY

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following  
address: \_\_\_\_\_

2. On \_\_\_\_\_, 20 \_\_\_\_, I served the within

NOTICE OF PROPOSED CHANGES TO THE TRANSCRIPT or COURT SUMMARY /  
STIPULATION OF ACCURACY OF THE TRANSCRIPT or COURT SUMMARY

upon \_\_\_\_\_ at \_\_\_\_\_ by:  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

and upon the (TOWN) (VILLAGE) Court of \_\_\_\_\_ by:  
(Name of Justice Court)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

Dated: \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the appropriate Justice Court)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

REQUEST FOR SETTLEMENT CONFERENCE

Docket No. \_\_\_\_\_

Vs.

I am the Appellant in the above referenced matter and I hereby request that the Justice Court of \_\_\_\_\_ schedule a Settlement Conference.

Dated: \_\_\_\_\_

To: 1. Wayne County Court  
9 Pearl Street, Box 608  
Lyons, New York 14489

\_\_\_\_\_  
(Name)

2. \_\_\_\_\_  
(Name of Justice Court)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Mailing Address of Justice Court)

\_\_\_\_\_  
(Telephone Number)

3. \_\_\_\_\_  
(Name of Opposing Party or Attorney of Record)

\_\_\_\_\_  
(Mailing Address)

**(After service, file this completed form with appropriate Justice Court)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
REQUEST FOR SETTLEMENT CONFERENCE

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following address: \_\_\_\_\_

2. On \_\_\_\_\_, 20\_\_\_\_, I served the within

REQUEST FOR SETTLEMENT CONFERENCE

upon \_\_\_\_\_ at \_\_\_\_\_ by:  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

and upon the (TOWN) (VILLAGE) Court of \_\_\_\_\_ by:  
(Name of Justice Court)

- (FIRST CLASS MAIL) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

Dated: \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the appropriate Justice Court)**

### **III. NOTICE OF ARGUMENT AND BRIEF**

**After the Return is filed with the Wayne County Court, you have twenty (20) days to:**

- ▶ **Complete the Notice of Argument form (attached) and indicate if you are or are not requesting Oral Argument before the Court. Leave the date and time blank on the Notice of Argument form. Even if you request Oral Argument, the County Court may determine that Oral Argument is not necessary and may decide the appeal on the submitted papers.**
- ▶ **Prepare a Brief or Statement of Contentions. The Brief or Statement of Contentions is your written argument outlining the basis for the appeal and indicating the error(s) allegedly made by the lower court.**
- ▶ **Serve a copy of the Notice of Argument and the Brief or Statement of Contentions on the opposing party(ies) or attorney(s) and complete an Affidavit of Service.**
- ▶ **File the Notice of Argument (original and two copies), the Brief or Statement of Contentions, and Affidavit of Service at the Wayne County Court. No fee is required.**

**If the Court sets a date for oral argument, you will be notified by mail of that date. The Court will notify the opposing party or opposing attorney of the court date.**

**Within twelve (12) days of receipt of the Notice of Argument and Brief or Statement of Contentions, the opposing party(ies) or attorney may submit an Appellee's Reply to the Court with a completed Affidavit of Service attesting that the Reply has been served on you, the Appellant.**

**If you receive a Reply from the opposing party, you will have 10 additional days to file a Written Response. An Affidavit of Service (form attached) will need to be completed and filed with the County Court as proof that you served the opposing party.**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

NOTICE OF ARGUMENT

Docket No. \_\_\_\_\_

Vs.

(Select one box):

I DO REQUEST ORAL ARGUMENT.

I understand that if my request for oral argument is not granted, the appeal will be decided on the papers that I and the responding party have submitted.

I further understand that if my request for oral argument is granted, this is not an opportunity for a re-trial and that I can not produce new evidence.

I DO NOT REQUEST ORAL ARGUMENT

I understand that the appeal will be decided on the papers which I and the responding party have submitted.

TAKE NOTICE that the Appeal in the above entitled action will be brought for argument before this Court at the next term thereof, to be held at:

Wayne County Hall of Justice  
54 Broad Street  
Village of Lyons, New York

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m. / p.m. of that day.  
(Do not complete this section - this will be completed by the court if needed)

Dated: \_\_\_\_\_

To: 1. Wayne County Court  
54 Broad Street  
Lyons, New York 14489

\_\_\_\_\_  
(Name of Appellant)

2. \_\_\_\_\_  
(Name of Opposing Party or Attorney of Record)

\_\_\_\_\_  
(Address of Appellant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Telephone Number)

**(After service, file this completed form with the Wayne County Clerk, 9 Pearl Street, Lyons, NY 14489)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
NOTICE OF ARGUMENT AND BRIEF

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following address: \_\_\_\_\_

2. On \_\_\_\_\_, 20 \_\_\_\_, I served the within

(Select all that apply)  NOTICE OF ARGUMENT

BRIEF

\_\_\_\_\_

(Name[s] of documents)

upon \_\_\_\_\_ at \_\_\_\_\_  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)

as follows:

(FIRST CLASS MAIL) by depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York

(PERSONAL SERVICE) by personally delivering a true copy of the same

(CERTIFIED MAIL, RETURN RECEIPT REQUESTED) by depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

Dated: \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the Wayne County Court, 54 Broad Street, Lyons, NY 14489)**

STATE OF NEW YORK : COUNTY OF WAYNE

COURT: (TOWN) (VILLAGE) of \_\_\_\_\_  
(Name of Town or Village)

AFFIDAVIT OF SERVICE  
APPELLANT'S WRITTEN RESPONSE OR  
APPELLEE'S REPLY

Docket No. \_\_\_\_\_

Vs.

\_\_\_\_\_, being duly sworn, deposes and says:  
(Name of person serving document)

1. I am not a party to this action, am over the age of 18 years and reside at the following address: \_\_\_\_\_

2. On \_\_\_\_\_, 20 \_\_\_\_, I served the within  
 APPELLANT'S WRITTEN RESPONSE  
 APPELLEE'S REPLY  
 \_\_\_\_\_  
(Name[s] of documents)

upon \_\_\_\_\_ at \_\_\_\_\_  
(Name of Opposing Party or Attorney) (Address of Opposing Party or Attorney)  
as follows:

- (FIRST CLASS MAIL) by depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York
- (PERSONAL SERVICE) by personally delivering a true copy of the same
- (CERTIFIED MAIL, RETURN RECEIPT REQUESTED) by depositing a true copy of the same in a post-paid properly addressed envelope at a post office under the exclusive care and custody of the United States Postal Service within the State of New York by certified mail, return receipt requested.

Dated: \_\_\_\_\_  
(Signature of Person Providing Service)

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Notary Public

**(File this completed form with the Wayne County Court, 54 Broad Street, Lyons, NY 14489)**

#### **IV. DECISION AND ORDER ON APPEAL**

**After all of the documents have been received by the Court, the time to submit a Reply has expired, and oral argument, if granted, has taken place, the County Court Judge is ready to decide the appeal.**

**A copy of the Decision will be mailed to all parties or attorneys.**

#### **V. IMPORTANT INFORMATION**

- ▶ **If you fail to comply with these guidelines, the County Court may dismiss the appeal.**
- ▶ **The following references may be helpful when preparing your appeal:**
  - **Civil Practice Law and Rules, Article 55 - Appeals Generally**
  - **Uniform Rules - Trial Courts, Section 202.55**
  - **Uniform Justice Court Act, Article 17 - Appeals**
- ▶ **To assist you in this process, various forms are attached.**
- ▶ **Unless the County Court issues a Stay or the appellant files an undertaking with the Justice Court according to the rules, the prevailing party may begin to collect on a Judgement.**

**An undertaking is the amount of the judgment which is held by the Justice Court during the pendency of the Appeal. Once the appeal is decided by the County Court, the County Court will issue an Order releasing those funds to the prevailing party on the appeal.**