

**THE QUICK GUIDE SERIES**

**New York Supreme Court**

**APPELLATE TERM—SECOND DEPARTMENT**



**141 Livingston Street, 15th Floor  
Brooklyn, New York 11201  
(347) 401-9580**

**[www.courts.state.ny.us/courts/appterm\\_2nd.shtml](http://www.courts.state.ny.us/courts/appterm_2nd.shtml)**



**GUIDELINES**  
**APPELLATE TERM—SECOND DEPARTMENT**

SECOND AND ELEVENTH JUDICIAL DISTRICTS  
*Kings, Richmond and Queens*

NINTH AND TENTH JUDICIAL DISTRICTS  
*Dutchess, Orange, Putnam, Rockland,  
Westchester, Nassau and Suffolk*

**INTRODUCTION**

This serves only as a quick reference guide for filing Briefs for civil and criminal appeals. **THE QUICK GUIDE SERIES** outlines procedures on how documents should be sequenced, paginated, indexed, titled, printed and bound. In addition, it contains formatting requirements for briefs as well as information on service and filing deadlines. Please call Record Press for clarification, and our expert staff of attorneys and paralegals will assist you. For a comprehensive reference, consult the actual rules of the court. The rules of the Appellate Term—Second Department cited herein appear in the *New York Supreme Court Rules*, §§ 730-732.12. For general appellate procedures, also consult the *Civil Practice Law and Rules*, §§ 5501-5532, 5601-5615, 5701-5713 and 8022.

November 2008  
Record Press Inc.

Natasha R. Monell, Esq.  
*Staff Counsel*

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<b>THE QUICK GUIDE SERIES</b>	
<b>NEW YORK SUPREME COURT</b> Appellate Division—First Department Appellate Division—Second Department Appellate Division—Third Department Appellate Division—Fourth Department Appellate Term—First Department Appellate Term—Second Department	<b>UNITED STATES COURT OF APPEALS</b> First Circuit Second Circuit Third Circuit Fourth Circuit Fifth Circuit Sixth Circuit Seventh Circuit Eighth Circuit Ninth Circuit Tenth Circuit Eleventh Circuit Federal Circuit District of Columbia Circuit
<b>NEW YORK STATE COURT OF APPEALS</b>	<b>UNITED STATES SUPREME COURT</b>

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## **FILING OF PAPERS**

Pursuant to § 730.1, all motions and appellate papers addressed to either of the Appellate Terms—Second Department shall be made returnable to:

Office of the Clerk of the Court  
APPELLATE TERM—SECOND DEPARTMENT  
141 Livingston Street, 15th Floor  
Brooklyn, New York 11201  
(347) 401-9580  
[www.courts.state.ny.us/courts/appterm\\_2nd.shtml](http://www.courts.state.ny.us/courts/appterm_2nd.shtml)

## **FILING THE NOTICE OF APPEAL**

### **CPLR 5513 Time to Take Appeal**

The Notice of Appeal shall be filed within 30 days after service of a copy of the Order or Judgment with Notice of Entry. The Notice of Cross-Appeal shall be filed within 10 days after service of the first Notice of Appeal.

### **CPLR 5515 Taking an Appeal**

The Notice of Appeal is filed with the Clerk of the Court of original instance. It is the responsibility of the Clerk to transmit the Notice of Appeal to the Appellate Term.

**File:** 1 original and 1 copy  
Notice of Appeal, Order or Judgment Appealed From  
with Notice of Entry, Proof of Service

**Serve:** 1 copy

**Filing Fee:** varies

## **TRANSCRIPT OF PROCEEDINGS**

### **CPLR 5525(C) Preparation and Settlement of Transcript**

It is the Appellant's duty to serve upon the court reporter a Request for a Transcript of the Proceedings.

#### ***Civil Appeals***

The Appellant shall make any proposed amendments to the transcript and serve the transcript with a Notice of Settlement upon the Respondent within 15 days after receiving the transcript from the court reporter. Within 15 days after such service, the Respondent shall make any proposed amendments or objections to the proposed amendments of the Appellant and serve them upon the Appellant. The original transcript shall be corrected by the Appellant and filed with the Clerk of the Civil or County Court. The Clerk of the Civil or County Court shall then organize and send the entire file, along with the settled transcript, to the Appellate Term—Second Department.

#### ***Criminal Appeals***

The Appellant shall file the original transcript with Clerk of the Criminal Court. The Clerk shall send the transcript to be settled by the Judge and then file all the original papers in the Appellate Term. Upon perfecting the appeal, the Appellant shall serve the District Attorney one copy of the transcript along with the Appellant's Brief. Such copy of the transcript shall be returned by the District Attorney to the Appellant upon the argument or submission of the appeal, unless otherwise indicated.

## **PERFECTING THE APPEAL**

An appeal is said to be “perfected” when the Appellant’s Brief is filed in the Appellate Term—Second Department.

### **§ 731.1 and § 732.1 Records on Appeal and Clerk’s Return**

Upon receipt of the Notice of Appeal, the Appeals Clerk in the lower Court shall assemble the original papers, including the settled Transcript of Proceedings, issue a Clerk’s Return and send the entire file to the Appellate Term.

The Clerk’s Return and the original papers constitute the Record on Appeal. Unless otherwise ordered by the Appellate Term, an Appellant may, but need not, print copies of the Record on Appeal. The parties may attach as exhibits to their briefs relevant portions of the record. The Appellate Term must receive the entire file from the lower Court before accepting the Appellant’s Brief for filing.

### **§ 731.8 and § 732.8 Time to Perfect the Appeal**

An appeal in a civil case shall be perfected within 90 days from the date of receipt by the Appellate Term—Second Department of the original papers with the Clerk’s Return from the Court of original instance. An appeal in a criminal case shall be perfected within 90 days after the Notice of Appeal was filed. An appeal not perfected within the time limitation is subject to dismissal on the Court’s own motion.

### **§ 731.4 and § 732.4 Calendar of Appeals**

An appeal is placed on the Appellate Term’s calendar when the Appellant files their opening Brief. Notification of the appointed term to which an appeal has been assigned shall be published in the *New York Law Journal* not less than twelve days prior to the date of said term. Attorneys for all parties shall be notified by **postal card** not less than five days prior to the date of said term.

### **§ 731.4 and § 732.4 Papers Required on Appeal**

An original and five copies of Appellant's Brief, with proof of service shall be filed in the Appellate Term, on or before the first Friday of any given month the appeal is to be noticed. In a criminal appeal, a proof of service of one copy of the Transcript of Proceedings shall be filed together with an original and five copies of Appellant's Brief with proof of service.

An original and five copies of the Respondent's Brief shall be filed not more than 21 days after service of the Appellant's Brief.

An original and five copies of the Reply Brief shall be filed not more than 7 days after service of the Respondent's Brief.

## **BRIEFS**

### **§ 731.2 and § 732.2 Specifications for Briefs**

**Overall Size:** 8½ × 11

**Cover:** All briefs shall have a stiff cover and be bound on the left hand side. There are no color requirements for the cover. The cover shall contain the original Court Clerk's Index Number, the name of the counsel who will submit or argue the brief and the time requested for argument, the appellate caption and court, the title of the document, the names, addresses and telephone numbers of the attorneys for the party. The Appellate Term Calendar Number shall be stated on the upper left hand corner of the cover.

**Typesize:** Briefs shall be set in a type of no less than 11 point. Lines are double spaced. The margins shall be at least one inch.

<b>Page Limitation:</b>	Appellant's Brief	50
	Respondent's Brief	50
	Reply Brief	25

**Signed Original:** Briefs must be signed by the attorney.

**Copies:** File 6 and Serve 1

## **Appellant's Brief**

Statement Pursuant to CPLR 5531

Table of Contents

Questions Presented

Nature of the Case

Argument

Conclusion

In criminal appeals, the Appellant's Brief at the beginning shall also set forth: either the entire judgment or order appealed from, or its material provisions, including its date; the sentence imposed, if any; and a statement whether an order issued pursuant to CPL 460.50 is outstanding and, if so, the date of such order, the name of the Judge who issued it and whether the Appellant is free on bail or on his own recognizance.

## **Respondent's Brief**

A Respondent's Brief may omit the Questions Presented and Nature of the Case unless the Respondent disagrees with statements made by the Appellant, in which case a Counterstatement of Questions Presented and Nature of the Case shall be made.

## **Reply Brief**

A Reply Brief shall contain a Table of Contents and Argument without repetition of the arguments made in the main Brief.

## STATEMENT PURSUANT TO CPLR 5531

[caption]

1. The index number of the case is \_\_\_\_\_.
2. The full names of the original parties are \_\_\_\_\_, Plaintiff(s) and \_\_\_\_\_, Defendant(s). There has been no change in the parties (or describe any change).
3. The action was commenced in \_\_\_\_\_ Court, \_\_\_\_\_ County.
4. The action was commenced on \_\_ \_\_\_\_\_, 20\_\_, by service of summons and complaint; the answer of Defendant was served on \_\_ \_\_\_\_\_, 20\_\_, (continue to detail service of all pleadings).
5. The nature and object of the action are as follows:  
(describe)
6. This appeal is from an order (or judgment, decree, etc.) of Honorable \_\_\_\_\_, entered in favor of \_\_\_\_\_, against \_\_\_\_\_ on \_\_ \_\_\_\_\_, 20\_\_, which (describe order).
7. The appeal is on the original record.

Date:

\_\_\_\_\_  
Attorney for Appellant

## **FEES**

There is no filing fee in the Appellate Term—Second Department.

## **FILING AND SERVICE**

Briefs will be deemed filed in the Appellate Term—Second Department only as of the time they are actually received by the Clerk and shall be accompanied by proof of service upon all necessary parties. Service can be performed by mail as long as it is postmarked by the U.S. Postal Service on or before the due date.

If service is by mail, 5 days shall be added to the prescribed period. If service is by overnight delivery, 1 day shall be added. Affidavits of service which are silent as to the method of service shall be treated as though service was by regular mail.

## **ORAL ARGUMENT**

All Brief covers shall indicate whether the appeal is to be argued or submitted, and include the name of the attorney who will argue and the time requested. Pursuant to § 731.6 and § 732.6, not more than 15 minutes shall be allowed to each side for argument. The date of oral argument shall be published in the *New York Law Journal*, or the date may be obtained by calling the Appellate Term.

**SAMPLE COVER**

CAL. NO. \_\_\_\_\_

*To Be Argued By:*

\_\_\_\_\_  
*Time Requested: \_\_ Minutes*

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**New York Supreme Court**

APPELLATE TERM—SECOND DEPARTMENT

\_\_\_\_\_ and \_\_\_\_\_ *Judicial Districts*

—◆◆◆—  
RECORD PRESS, INC.,

*Plaintiff-Appellant,*

—against—

ALL OTHER PARTIES,

*Defendants-Respondents.*

---

**BRIEF FOR PLAINTIFF-APPELLANT**

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*Of Counsel:*

LAW FIRM

*Attorneys for Plaintiff-Appellant*

Address

Phone

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\_\_\_\_\_ County \_\_\_\_\_ Court Clerk's Index No. 00000/00

## **APPELLATE SERVICES**

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We produce a courtesy proof of your record/appendix within 72 hours—providing you with a final opportunity to make corrections.

### **Finalizing and Printing**

Since your documents are stored electronically, we are able to quickly finalize and print the necessary copies of your record/appendix and brief.

### **Service and Filing**

We serve and file your documents with any of the state and federal appellate courts.

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Technology which allows our staff to electronically monitor the Court Calendar for the New York State, Appellate Division First and Second Departments and notify you when your appeal is scheduled for oral argument.

### **Website**

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