

# Table of Contents

## CHAPTER 1. INTRODUCTION

- § 1:1 Complexity of the appellate process and the rules regulating that process
- § 1:2 Stages of the appellate process
- § 1:3 Signing of papers
- § 1:4 Fees
- § 1:5 Form—Attorney’s signature block on papers served or filed—22 NYCRR § 130-1.1-a—Text § 1:3
- § 1:6 —Signing Requirement Certification—Second Department—22 NYCRR § 130-1.1-a—Text § 1:3

## CHAPTER 2. ORGANIZATION AND JURISDICTION OF THE COURTS

- § 2:1 Judicial departments and districts
- § 2:2 Appellate courts—Court of Appeals
- § 2:3 —Appellate Division
- § 2:4 —Appellate Term
- § 2:5 —County court, appellate jurisdiction
- § 2:6 Trial courts—Supreme court
- § 2:7 —Court of Claims
- § 2:8 —County court
- § 2:9 —Surrogate’s court
- § 2:10 —Family court
- § 2:11 —District, city, town, and village courts

## CHAPTER 3. APPEALABILITY

- § 3:1 In general
- § 3:2 Names of parties
- § 3:3 Aggrieved party
- § 3:4 Appealable paper: order or judgment
- § 3:5 Orders or judgments entered on default
- § 3:6 Appealable orders and judgments—Generally
- § 3:7 —Appeals to Appellate Division generally
- § 3:8 —Appeals to Appellate Division from supreme court and county courts
- § 3:9 —Appeals to Appellate Division from trial courts other than supreme court and county courts
- § 3:10 —Appeals to Appellate Division from appellate court orders
- § 3:11 —Appeals to Court of Appeals

§ 3:12 —Appeals to Appellate Terms and county courts

## **CHAPTER 4. REVIEWABILITY**

- § 4:1 In general
- § 4:2 Scope of review on appeals from final judgments—  
CPLR 5501(a)—Generally
- § 4:3 — —Finality requirement
- § 4:4 — —Non-final judgments or orders (Paragraph (1))
- § 4:5 — —Orders denying new trials; trial rulings and jury  
charges; remarks by judge at trial (paragraphs (2) to  
(4))
- § 4:6 — —Additurs and remittiturs (paragraph (5))
- § 4:7 Scope of review—Court of Appeals—CPLR 5501(b)
- § 4:8 —Appellate division—CPLR 5501(c)—Generally
- § 4:9 —Money judgments in tort actions
- § 4:10 —Appellate terms—CPLR 5501(d)
- § 4:11 —County courts
- § 4:12 —Small claims

## **CHAPTER 5. MOTIONS FOR LEAVE TO RENEW, REARGUE, AND RESETTLE TRIAL COURT DECISION**

- § 5:1 In general
- § 5:2 Motion for leave to renew—Grounds
- § 5:3 —Timing
- § 5:4 —Appealability
- § 5:5 Motion to reargue—Grounds
- § 5:6 —Timing
- § 5:7 —Appealability
- § 5:8 Motion to resettle—Grounds
- § 5:9 —Timing
- § 5:10 —Appealability
- § 5:11 Effect—Motion to renew, reargue, or resettle on appeal  
from original order
- § 5:12 —Motion to renew on appeal from original order
- § 5:13 —Motion to reargue on appeal from original order
- § 5:14 —Motion to resettle on appeal from original order
- § 5:15 Form—Notice of motion for leave to renew—CPLR  
2221—Text § 5:2
- § 5:16 —Affirmation in support of motion for leave to  
renew—CPLR 2221—Text § 5:2
- § 5:17 —Notice of motion for reargument—CPLR 2221—Text  
§ 5:5
- § 5:18 —Affidavit in support of motion for reargument—  
CPLR 2221—Text § 5:5

## TABLE OF CONTENTS

- § 5:19 —Notice of motion to resettle order—CPLR 2219—Text § 5:8
- § 5:20 —Affidavit in support of motion to resettle order—CPLR 2219—Text § 5:8

## CHAPTER 6. DECIDING WHETHER TO APPEAL AND TIME TO APPEAL

- § 6:1 Deciding whether to appeal
- § 6:2 Time to appeal—In general
- § 6:3 —Service of judgment or order with notice of entry
- § 6:4 —Cross-appeals
- § 6:5 —Extensions of time
- § 6:6 —Motions to dismiss appeal as untimely
- § 6:7 —Premature appeals
- § 6:8 Form—Notice of entry of judgment or order entered in court of original instance—CPLR 5513—Text § 6:3
- § 6:9 —Notice of entry of order of Appellate Division—CPLR 5513—Text § 6:3
- § 6:10 —Notice of motion for extension of time to cure omission on taking appeal—CPLR 5520—Text § 6:5
- § 6:11 —Affidavit in support of motion for extension of time to cure omission on taking appeal—CPLR 5520—Text § 6:5
- § 6:12 —Notice of motion for extension of time to serve notice of appeal—CPLR 5520(a)—Text § 6:5
- § 6:13 —Affidavit in support of motion for extension of time to serve notice of appeal—CPLR 5520(a)—Text § 6:5
- § 6:14 —Notice of motion to dismiss appeal as untimely taken—CPLR 5513—Text § 6:6
- § 6:15 —Affidavit in support of motion to dismiss appeal as untimely—CPLR 5513—Text § 6:6
- § 6:16 —Affirmation in support of motion to dismiss appeal as untimely—CPLR 5513—Text § 6:6

## CHAPTER 7. TAKING THE APPEAL

- § 7:1 Taking the appeal—In general
- § 7:2 Taking an appeal as of right—Form of notice of appeal
- § 7:3 —Serving and filing the notice of appeal
- § 7:4 —Defects or omissions in the notice of appeal
- § 7:5 —Court of Appeals
- § 7:6 —Appellate Division
- § 7:7 —Second Department Appellate Terms
- § 7:8 —First Department Appellate Term and county courts
- § 7:9 Cross-appeals
- § 7:10 Moving for permission to appeal—In general

- § 7:11 —Court of Appeals
- § 7:12 Moving for permission to appeal to the Appellate Division—In general
- § 7:13 —Procedure
- § 7:14 Moving for permission to appeal to the Appellate Term, First Department
- § 7:15 Moving for permission to appeal to the Appellate Terms, Second Department
- § 7:16 Moving for permission to appeal to the county court
- § 7:17 Form—Notice of appeal to Court of Appeals from order of Appellate Division finally determining action with two dissents—CPLR 5515, 5601(a)—Text §§ 7:2, 7:5
- § 7:18 —Notice of appeal to Court of Appeals from order of Appellate Division finally determining action where construction of Constitution is directly involved—CPLR 5515, 5601(b)(1)—Text §§ 7:2, 7:5
- § 7:19 —Notice of appeal to Court of Appeals from Appellate Division reversal of non-final order with stipulation for judgment absolute—CPLR 5515, 5601(c)—Text §§ 7:2, 7:5
- § 7:20 —Preliminary Appeal Statement—Court of Appeals—Text §§ 7:5, 7:11
- § 7:21 —Notice of appeal to Appellate Division from judgment of Supreme Court—CPLR 5515, 5701(a)—Text §§ 7:2, 7:6
- § 7:22 —Notice of appeal to Appellate Division from part of judgment of Supreme Court—CPLR 5515, 5701(a)—Text §§ 7:2, 7:6
- § 7:23 —Notice of appeal to Appellate Division from order of Supreme Court—CPLR 5515, 5701(a)—Text §§ 7:2, 7:6
- § 7:24 —Notice of appeal to Appellate Division from decree of Surrogate’s Court—CPLR 5515, 5702—Text §§ 7:2, 7:6
- § 7:25 —Notice of appeal to Appellate Division from order of Appellate Term—CPLR 5515, 5703—Text §§ 7:2, 7:6
- § 7:26 —Appellate Division Informational Statement—Text § 7:6
- § 7:27 —Request for Appellate Term Action (RATA)—Text § 7:7
- § 7:28 —Notice of appeal to Appellate Division from order of county court determining appeal from judgment of lower court—CPLR 5515, 5703—Text §§ 7:2, 7:6
- § 7:29 —Notice of appeal to Appellate Term from town court—CPLR 5515—Text §§ 7:2, 7:8
- § 7:30 —Notice of appeal to county court from City Court—CPLR 5515—Text §§ 7:2, 7:8

## TABLE OF CONTENTS

- § 7:31 —Notice of motion in Court of Appeals for leave to appeal to Court of Appeals from order of Appellate Division—CPLR 5602(a)—Text § 7:11
- § 7:32 —Notice of motion in Appellate Division for leave to appeal to Court of Appeals from order of Appellate Division finally determining action—CPLR 5602(a)—Text § 7:11
- § 7:33 —Affidavit in support of motion in Appellate Division for leave to appeal to Court of Appeals from order of Appellate Division finally determining action—CPLR 5602—Text § 7:11
- § 7:34 —Notice of motion made in Supreme Court for leave to appeal to Appellate Division from order of Supreme Court not appealable as of right—CPLR 5701(c)—Text §§ 7:12, 7:13
- § 7:35 —Notice of motion made in Appellate Division for leave to appeal to Appellate Division from order of Supreme Court not appealable as of right—CPLR 5701(c)—Text §§ 7:12, 7:13
- § 7:36 —Notice of motion made in Appellate Term for leave to appeal to Appellate Division from order of Appellate Term determining appeal from lower court—CPLR 5703—Text § 7:13
- § 7:37 —Affidavit in support of motion made in Appellate Term for leave to appeal to Appellate Division from order of Appellate Term determining appeal from lower court—CPLR 5703—Text § 7:13
- § 7:38 —Notice of motion made in Appellate Division for leave to appeal to Appellate Division from Appellate Term—CPLR 5703—Text § 7:13
- § 7:39 —Affirmation in support of motion made in Appellate Division for leave to appeal to Appellate Division from Appellate Term—CPLR 5703—Text § 7:13
- § 7:40 —Notice of cross-appeal—CPLR 5513(c)—Text § 7:9

## CHAPTER 8. MOTIONS PENDING APPEAL AND CPLR 5704 RELIEF

- § 8:1 Preferences
- § 8:2 Consolidation
- § 8:3 Intervention
- § 8:4 Amicus curiae
- § 8:5 CPLR 5704 motion
- § 8:6 Form—Notice of motion for a preference in hearing of appeal—CPLR 5521, 22 NYCRR §§ 1250.15(a)(2), 1000.15(a), 731.6(b)(1)—Text § 8:1
- § 8:7 —Affidavit in support of motion for preference in

- hearing of appeal—CPLR 5521, 22 NYCRR §§ 1250.15(a)(2), 1000.15(a), 731.6(b)(2)—Text § 8:1
- § 8:8 —Notice of motion to consolidate appeals—Text § 8:2
- § 8:9 —Affirmation in support of a motion to consolidate appeals—Text § 8:2
- § 8:10 —Notice of motion to intervene—Text § 8:3
- § 8:11 —Affidavit in support of motion to intervene—Text § 8:3
- § 8:12 —Notice of motion in Court of Appeals for leave to appear as amicus curiae—22 NYCRR 500.23—Text § 8:4
- § 8:13 —Affidavit in support of motion in Court of Appeals for leave to appear as amicus curiae—Text § 8:4
- § 8:14 —Order to show cause why ex parte order of trial court should not be vacated by Appellate Division (or Appellate Term)—Text § 8:5
- § 8:15 —Summary Statement on Application for Expedited Service and/or Interim Relief—CPLR 5704, 22 NYCRR § 1250.4(b)(2)—Text § 8:5
- § 8:16 —Notice of motion to vacate an ex parte order—CPLR 5704—Text § 8:5
- § 8:17 —Affidavit in support of motion to vacate ex parte order—CPLR 5704, 22 NYCRR §§ 1250.4(b)(2), 670.4(a)(1), 850.4(a)(1)—Text § 8:5

## CHAPTER 9. STAYS, PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS

- § 9:1 In general
- § 9:2 Types of stays
- § 9:3 —Automatic
- § 9:4 —Discretionary
- § 9:5 —Interim
- § 9:6 Duration and extent of the stay
- § 9:7 Preliminary injunctions and temporary restraining orders
- § 9:8 Form—Affidavit of intention to move for permission to appeal (automatic stay)—CPLR 5519(a)—Text § 9:3
- § 9:9 —Undertaking on appeal from judgment or order directing payment of money—CPLR 5519(a)—Text § 9:3
- § 9:10 —Order to show cause for stay of enforcement of judgment in excess of \$1 million pending appeal in medical, dental, or podiatric malpractice case—CPLR 5519(g)—Text § 9:3

## TABLE OF CONTENTS

- § 9:11 —Affidavit in support of motion for stay of enforcement of judgment in excess of \$1,000,000 pending appeal in medical, dental, or podiatric malpractice case—CPLR 5519(g)—Text § 9:3
- § 9:12 —Order to show cause for stay of enforcement of judgment pending appeal—CPLR 5519(c)—Text § 9:4
- § 9:13 —Affidavit in support of motion for stay of enforcement of judgment pending appeal—CPLR 5519(c), 22 NYCRR §§ 1250.4(b)(2), 670.4(a)(1), 850.4(a)(1), 1000.4(b)—Text § 9:4
- § 9:14 —Summary statement on application for expedited service and/or interim relief—CPLR 5519(c), 22 NYCRR § 1250.4(b)(2)—Text § 9:5
- § 9:15 —Order to show cause upon motion for preliminary injunction pending appeal (containing temporary restraining order)—CPLR 5518—Text § 9:7
- § 9:16 —Affidavit in support of motion for preliminary injunction pending appeal—CPLR 5518, 22 NYCRR §§ 1250.4(b)(2), 670.4(a)(1), 850.4(a)(1), 1000.4(b)—Text § 9:7

## CHAPTER 10. PREARGUMENT CONFERENCES

- § 10:1 In general
- § 10:2 First Department Appellate Division
- § 10:3 Second Department Appellate Division
- § 10:4 Third Department Appellate Division
- § 10:5 Second Department Appellate Term

## CHAPTER 11. COURT PAPERS, ELECTRONIC FILING, AND PERFECTING AN APPEAL GENERALLY

- § 11:1 Introduction
- § 11:2 Form of reproduction
- § 11:3 Form of court papers—Generally
- § 11:4 —Court of Appeals
- § 11:5 —Appellate Division
- § 11:6 —Appellate Term—First Department
- § 11:7 —Appellate Terms—Second Department
- § 11:8 —County courts
- § 11:9 E-filing and e-service of briefs, appendices, and records on appeal in the Appellate Division—Generally
- § 11:10 —First Department
- § 11:11 —Second Department

- § 11:12 —Third Department
- § 11:13 —Fourth Department
- § 11:14 E-filing and e-service of briefs, appendices, and records on appeal in the Court of Appeals *[Reserved]*
- § 11:15 E-filing and e-service of briefs, appendices, and records on appeal in the Appellate Term—First Department *[Reserved]*
- § 11:16 E-filing and e-service of briefs, appendices, and records on appeal in the Appellate Terms—Second Department *[Reserved]*
- § 11:17 E-filing and e-service of briefs, appendices, and records on appeal in the county courts *[Reserved]*
- § 11:18 Definition of “perfecting” an appeal
- § 11:19 Appellate printers: a safer and saner alternative
- § 11:20 Applicable rules in perfecting appeals

## **CHAPTER 12. PERFECTING AN APPEAL TO THE APPELLATE DIVISION**

### **I. OVERVIEW**

- § 12:1 Introduction
- § 12:2 Stages in perfecting an appeal to the Appellate Division
- § 12:3 Cross-appeals and concurrent appeals
- § 12:4 Filing and service of documents
- § 12:5 Confidentiality and sealing

### **II. STAGE 1 THE TRANSCRIPT**

- § 12:6 Introduction
- § 12:7 Statement in lieu of transcript where a record of the proceeding was not made or has been lost
- § 12:8 Step 1: Ordering a copy of the transcript
- § 12:9 Step 2: Reviewing the transcript
- § 12:10 Step 3: Settling the transcript
- § 12:11 Step 4: Serving the transcript
- § 12:12 Step 5: Filing the transcript

### **III. STAGE 2 THE RECORD ON APPEAL**

- § 12:13 Introduction
- § 12:14 —Contents
- § 12:15 —Form
- § 12:16 —Method
- § 12:17 CPLR 5531 statement
- § 12:18 Adequacy of the record on appeal
- § 12:19 Matters outside the record



## TABLE OF CONTENTS

- § 12:20 The three methods of presenting the record on appeal—Generally
- § 12:21 —Agreed statement method in lieu of record on appeal
- § 12:22 —Full record method—Generally
- § 12:23 — —Step 1: Collecting the documents; exhibits
- § 12:24 — —Step 2: Making a master copy
- § 12:25 — —Step 3: Reviewing the documents
- § 12:26 — —Step 4: Paginating the record
- § 12:27 — —Step 5: Typing headings
- § 12:28 — —Step 6: Composing table of contents
- § 12:29 — —Step 7: Certifying the record
- § 12:30 — —Step 8: Reproducing the record
- § 12:31 — —Serving and Filing the record
- § 12:32 —Appendix method—Generally
- § 12:33 — —Step 1: Preparing the record on appeal
- § 12:34 — —Step 2: Preparing the appendix
- § 12:35 — —Incomplete and inadequate appendices
- § 12:36 — —Step 3: serving and filing the appendix and full record

## IV. STATE 3 BRIEFS

- § 12:37 Generally
- § 12:38 Form and contents
- § 12:39 Serving and filing
- § 12:40 New legal theories; issues raised for the first time on appeal
- § 12:41 Abandonment of claims or defenses on appeal

## V. STAGE 4 CALENDARING THE APPEAL; FILING THE PAPERS

- § 12:42 Generally
- § 12:43 First Department
- § 12:44 Second Department
- § 12:45 Third Department
- § 12:46 Fourth Department

## VI. STAGE 5 ORAL AGRUMENT AND SUBMISSION

- § 12:47 Generally
- § 12:48 Requirements

## VII. DEADLINES

- § 12:49 Deadlines; extensions; dismissals for failure to

perfect; withdrawal of appeals; change of  
circumstances

## VIII. SPECIAL RULES FOR INDIGENTS

§ 12:50 Perfecting appeals—Special rules for indigents

## IX. FORMS

- § 12:51 Form—Statement in lieu of stenographic transcript—  
CPLR 5525(d)—Text § 12:7
- § 12:52 —Request for transcript—CPLR 5525(a)—Text § 12:8
- § 12:53 —Court reporter minute agreement form—22 NYCRR  
Part 108—Official Form—Text § 12:8
- § 12:54 —Stipulation for partial transcript—CPLR 5525(b)—  
Text § 12:8
- § 12:55 —Notice of settlement of transcript—CPLR 5525(c)—  
Text § 12:10
- § 12:56 —Appellant's proposed amendments to transcript—  
CPLR 5525(c)—Text § 12:10
- § 12:57 —Respondent's proposed amendments to transcript  
and objections to Appellant's proposed  
amendments—CPLR 5525(c)—Text § 12:10
- § 12:58 —Stipulation and certification as to correctness of  
transcript—CPLR 5525(c), 5532—Text § 12:10
- § 12:59 —Affirmation of compliance where transcript not  
opposed by respondent—CPLR 5525(c)—Text § 12:10
- § 12:60 —Notice of submission of transcript to court for  
settlement—CPLR 5525(c)—Text § 12:10
- § 12:61 —Certification by judge as to correctness of  
transcript—CPLR 5525(c)—Text § 12:10
- § 12:62 —Statement pursuant to CPLR 5531—Text § 12:17
- § 12:63 — —Second Department Form—Text § 12:17
- § 12:64 —Notice of agreed statement in lieu of record on  
appeal—CPLR 5527—Text § 12:21
- § 12:65 —Stipulation as to statement in lieu of record on  
appeal—CPLR 5527—Text § 12:21
- § 12:66 —Statement in lieu of record on appeal—CPLR  
5527—Text § 12:21
- § 12:67 —Stipulation omitting exhibits from record on  
appeal—CPLR 5526; 22 NYCRR § 1250.7(c)—Text  
§ 12:23
- § 12:68 —Demand for respondent's exhibits—Third  
department—CPLR 5526; 22 NYCRR § 850.7(a)—  
Text § 12:23
- § 12:69 —Cover of Record on Appeal—Second Department  
Form—CPLR 5526; 22 NYCRR § 1250.7(b)(1)—Text  
§ 12:30

## TABLE OF CONTENTS

§ 12:70	<i>[Reserved]</i>
§ 12:71	<i>[Reserved]</i>
§ 12:72	Form—Certification of Record on Appeal Pursuant to—CPLR 2105; 22 NYCRR § 1250.7(g)—Text § 12:29
§ 12:73	—Certification of Record on Appeal—Second Department Form—CPLR 2105; 22 NYCRR § 1250.7(g)—Text § 12:29
§ 12:74	—Stipulation in lieu of certification of record on appeal—CPLR 5532; 22 NYCRR § 1250.7(g)—Text §§ 12:29, 12:33
§ 12:75	—Certificate of record on appeal by court clerk in appendix method—First and Second Departments—CPLR 5526; 22 NYCRR § 1250.9(a)(2)(i)—Text § 12:33
§ 12:76	—Notice of settlement of single copy of record on appeal in appendix method—Third Department—22 NYCRR § 850.7(b)(2)—Text § 12:33
§ 12:77	—Respondent’s proposed amendments and objections to appellant’s proposed single copy of record on appeal in appendix method—Third department—22 NYCRR § 850.7(b)(2)—Text § 12:33
§ 12:78	—Affirmation of compliance where appellant’s proposed record on appeal not opposed by respondent in appendix method—Third department—22 NYCRR § 850.7(b)(2)—Text § 12:33
§ 12:79	—Notice of motion to compel appellant to include in appendix parts of record which appellant should reasonably assume will be relied on by respondent—CPLR 5528; 22 NYCRR § 1250.7(d)(1)(v)—Text § 12:35
§ 12:80	—Affidavit in support of motion to compel appellant to print in appendix parts of record which appellant should reasonably have assumed would be relied on by respondent—CPLR 5528; 22 NYCRR § 1250.7(d)(1)(v)—Text § 12:35
§ 12:81	—Cover of Appellant’s Brief—Second Department Form—CPLR 5529; 22 NYCRR § 1250.8(a)—Text § 12:38
§ 12:82	<i>[Reserved]</i>
§ 12:83	Form—Statement of questions involved on appeal—CPLR 5528; 22 NYCRR § 1250.8(b)(3)—Text § 12:38
§ 12:84	—Printing Specifications Statement—Third Department Form—22 NYCRR § 1250.8(j)—Text § 12:38
§ 12:85	—Notice of motion to strike portions of brief referring to matters outside the record and raising issues for

- the first time in appellant's reply brief—Text §§ 12:19, 12:40
- § 12:86 —Affirmation in support of motion to strike portions of brief referring to matters outside the record and raising issues for the first time in appellant's reply brief—Text §§ 12:19, 12:40
- § 12:87 —Note of issue—First Department—22 NYCRR § 600.15(c)(1)—Court Form—Text § 12:43
- § 12:88 —Stipulation extending time in which to prosecute appeal—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:89 —Order to show cause why time within which to prosecute appeal should not be extended—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:90 —Notice of motion to extend time to perfect appeal—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:91 —Affidavit in support of motion to extend time within which to prosecute appeal—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:92 —Affirmation in support of motion to extend time to perfect appeal—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:93 —Motion to extend time to perfect appeal—Fourth Department Form—22 NYCRR § 1250.9(b)—Text § 12:49
- § 12:94 —Affidavit of service—Second Department Form—CPLR 2103(b)
- § 12:95 —Affidavit of personal service—Third Department Form—CPLR 2103(b)
- § 12:96 —Affidavit of service of mailing—Third Department Form—CPLR 2103(b)

## CHAPTER 13. PERFECTING AN APPEAL TO THE COURT OF APPEALS

- § 13:1 Introduction
- § 13:2 Sua sponte examination of subject matter jurisdiction and alternative procedure for selected appeals
- § 13:3 Steps in perfecting the appeal
- § 13:4 Preparation of the record material—Generally
- § 13:5 —Agreed statement method
- § 13:6 —Appendix method
- § 13:7 —Full record method
- § 13:8 —Direct appeals to the Court of Appeals
- § 13:9 Briefs—Generally
- § 13:10 —Appellant's brief
- § 13:11 —Respondent's brief
- § 13:12 —Reply briefs

## TABLE OF CONTENTS

- § 13:13 —Amicus curiae
- § 13:14 Submission of briefs, records, and appendices in digital format
- § 13:15 Serving and filing record materials and briefs
- § 13:16 Calendaring the appeal; oral argument
- § 13:17 Withdrawal of the appeal
- § 13:18 Extensions of time to serve and file; dismissals for failure to proceed or file papers
- § 13:19 Form—Corporate disclosure statement—22 NYCRR § 500.1(f), 500.13(a)—Text § 13:9
- § 13:20 —Brief cover—22 NYCRR § 500.1(f), 500.13(a)—Text § 13:9

## **CHAPTER 14. PERFECTING AN APPEAL TO THE APPELLATE TERMS AND COUNTY COURTS**

- § 14:1 Introduction
- § 14:2 Record on appeal—Appeals to the Appellate Term, First Department, from the New York City Civil Court
- § 14:3 General Provisions—Appeals to the Appellate Terms, Second Department
- § 14:4 Record on appeal—Appeals to the Appellate Term, Second Department (Ninth and Tenth Judicial Districts), from county courts
- § 14:5 —Appeals to the Appellate Terms in the Second Department from the New York City Civil Court, city courts outside New York City, and district courts
- § 14:6 —Appeals to the Appellate Term for the Ninth and Tenth Judicial Districts from town and village justice courts
- § 14:7 —Appeals to county courts from city courts
- § 14:8 —Appeals to county courts from town and village justice courts
- § 14:9 —Adequacy of the record on appeal
- § 14:10 Briefs
- § 14:11 Filing and calendaring the appeal; oral argument—Generally
- § 14:12 —Appeals to the Appellate Term, First Department
- § 14:13 —Appeals to the Appellate Terms in the Second Department
- § 14:14 Calendaring the appeal and oral argument—Appeals to the county courts
- § 14:15 Extensions and dismissals for failure to proceed
- § 14:16 Form—Notice of argument on appeal to Appellate

Term, First Department—22 NYCRR § 640.6—Text  
§ 14:12

§ 14:17 —Statement of No Opinion—Text § 14:2

## **CHAPTER 15. *[Reserved]***

## **CHAPTER 16. APPELLATE ADVOCACY**

- § 16:1 Brief—General points
- § 16:2 —Preliminary statement
- § 16:3 —Questions presented
- § 16:4 —Statement of facts—General principles
- § 16:5 — —Specific guides
- § 16:6 —Argument
- § 16:7 —A last word
- § 16:8 Oral argument
- § 16:9 Final word

## **CHAPTER 17. MOTION PRACTICE**

- § 17:1 In general
- § 17:2 Court of Appeals
- § 17:3 Appellate Division
- § 17:4 Appellate Term—First Department
- § 17:5 Appellate Terms—Second Department
- § 17:6 County court

## **CHAPTER 18. DISPOSITION OF THE APPEAL**

- § 18:1 Power to dispose of a case generally
- § 18:2 Court of Appeals dispositions
- § 18:3 Intermediate appellate court dispositions
- § 18:4 General principles of law which limit appellate court's decision-making—Stare decisis
- § 18:5 —Law of the case, collateral estoppel and res judicata
- § 18:6 —Judicial restraint
- § 18:7 —Preservation and harmless error
- § 18:8 —Retroactivity rule
- § 18:9 Form and contents of an appellate court order
- § 18:10 Costs and disbursements
- § 18:11 Restitution
- § 18:12 Finding out about the disposition
- § 18:13 Entry and service of an appellate court order

## **CHAPTER 19. MOTIONS TO REARGUE APPELLATE COURT DECISION**

- § 19:1 In general

## TABLE OF CONTENTS

- § 19:2 Court of Appeals
- § 19:3 Appellate Division
- § 19:4 Appellate Term—First Department
- § 19:5 Appellate Terms—Second Department
- § 19:6 County court
- § 19:7 Form—Notice of motion in Appellate Division for reargument or leave to appeal to Court of Appeals from order of Appellate Division—Text § 19:1
- § 19:8 —Affidavit in support of motion in Appellate Division for reargument or leave to appeal to Court of Appeals from order of Appellate Division—Text § 19:1
- § 19:9 —Notice of motion in Court of Appeals for reargument—Text § 19:2

## CHAPTER 20. ARTICLE 78 TRANSFERS

- § 20:1 In general
- § 20:2 Transfers pursuant to CPLR 7804(g)
- § 20:3 Procedure in transferred proceedings—First Department
- § 20:4 —Second Department
- § 20:5 —Third Department
- § 20:6 —Fourth Department

## CHAPTER 21. INCIDENTAL PRACTICE

- § 21:1 Sanctions
- § 21:2 Engagement of counsel
- § 21:3 Fees
- § 21:4 Poor persons
- § 21:5 Special rules pertaining to particular types of appeals or proceedings
- § 21:6 Electronic recording, audio-visual coverage and use of portable electronic devices in appellate courts
- § 21:7 Confidential and sensitive material; sealing and redaction
- § 21:8 Form—Signing requirement certification—Second Department form—22 NYCRR § 130-1.1a—Text § 21:1
- § 21:9 —Instructions and forms for motion for poor person relief [Supreme Court]—Appellate Division, First Department form—CPLR 1101 and 1102, 22 NYCRR §§ 1250.4(d)(1) & (2)—Text § 21:4
- § 21:10 —Instructions and forms for motion for poor person relief [Family Court]—Appellate Division, First Department form—CPLR 1101 and 1102, 22 NYCRR § 1250.4(d)(1)—Text § 21:4

- § 21:11 —Instructions and forms for poor person relief—  
Appellate Division, Third Department form—CPLR  
1101 and 1102, 22 NYCRR §§ 1250.4(d)(1) & (2)—  
Text § 21:4
- § 21:12 —Instructions and forms for poor person relief on a  
transferred proceeding—Appellate Division, Third  
Department form—CPLR 1101 and 1102, 22 NYCRR  
§§ 1250.4(d)(1) & (2)—Text § 21:4
- § 21:13 —Instructions and forms for poor person relief and  
the assignment of counsel on a Family Court  
appeal—Appellate Division, Third Department  
form—CPLR 1101 and 1102, 22 NYCRR  
§§ 1250.4(d)(1) & (2)—Text § 21:4
- § 21:14 —Motion for Civil Poor Person Relief—Appellate  
Division, Fourth Department form—CPLR 1101 and  
1102, 22 NYCRR §§ 1250.4(d)(1) & (2), 22 NYCRR  
§§ 1000.4(f)(1)(a) and (b)—Text § 21:4
- § 21:15 —Motion for Poor Person Relief and Assignment of  
Counsel (Family Court)—Appellate Division, Fourth  
Department form—CPLR 1101 and 1102, 22 NYCRR  
§§ 1250.4(d)(1) & (2), 22 NYCRR §§ 1000.4(f)(1)(a)  
and (b)—Text § 21:4
- § 21:16 —Certification of Attorney for the Child/Juvenile—  
Appellate Division, Second Department form—  
Family Court Act 1118 and 1120, 22 NYCRR  
§ 1250.4(d)(3)—Text §§ 21:4 and 21:5
- § 21:17 —Attorney’s Certificate of Continued Eligibility for  
Poor Person Relief and Assignment of Counsel on  
Appeal (Family Court)—Appellate Division, Second  
Department form—Family Court Act 1118 and  
CPLR 1101, 22 NYCRR § 1250.4(d)(3)—Text §§ 21:4  
and 21:5
- § 21:18 —Attorney’s Certificate of Continued Eligibility for  
Poor Person Relief and Assignment of Counsel on  
Appeal (Supreme Court)—Appellate Division,  
Second Department form—Family Court Act 262  
and Judiciary Law § 35(8), 22 NYCRR § 1250.4(d)—  
Text § 21:4
- § 21:19 —Certificate of Continued Eligibility for Appointment  
of Counsel on Appeal—Appellate Division, Third  
Department form—Family Court Act 1120, 22  
NYCRR § 1250.4(d)(3)—Text §§ 21:4 and 21:5
- § 21:20 —Attorney’s Certificate of Appellants Eligibility for  
Poor Person Relief and Assignment of Counsel—  
Appellate Division, Fourth Department form—  
Family Court Act 1120, 22 NYCRR § 1250.4(d)(3)—  
Text §§ 21:4 and 21:5
- § 21:21 —Notice of appeal to Appellate Division, Third



## TABLE OF CONTENTS

- Department from decision of Workers' Compensation Board—Appellate Division, Third Department form—22 NYCRR §§ 1250.5(e)(5), 1250.14(e), 850.14(b)—Text § 21:5
- § 21:22 —Instructions and forms for moving for permission to appeal as a poor person and to have the appeal heard, on the original Worker's Compensation Board file—Appellate Division, Third Department form—22 NYCRR §§ 1250.5(e)(5), 1250.14(e), 850.14(b)—Text § 21:5
- § 21:23 —Notice of appeal to Appellate Division, Third Department from decision of Unemployment Insurance Appeal Board—Appellate Division, Third Department form—Labor Law § 625, 22 NYCRR §§ 850.14(a) and 850.15(b)—Text § 21:5
- § 21:24 —Instructions and forms for appeal by pro se claimant from decision of Unemployment Insurance Appeal Board—Appellate Division, Third Department form—Labor Law § 625, 22 NYCRR §§ 850.14(a) and 850.15(b)—Text § 21:5

## APPENDICES

- APPENDIX A. List of Addresses and Telephone Numbers of the Appellate Courts
- APPENDIX B. New York State Constitution—Miscellaneous Sections from Article VI
- APPENDIX C-1. Civil Practice Law and Rules Article 10—Parties Generally
- APPENDIX C-2. Civil Practice Law and Rules Article 11—Poor Persons
- APPENDIX C-3. Civil Practice, Law and Rules Article 20—Mistakes, Defects, Irregularities and Extensions of Time
- APPENDIX C-4. Civil Practice, Law and Rules Article 21—Papers
- APPENDIX C-5. Civil Practice Law and Rules Article 21-A—Filing of Papers in the Courts by Facsimile Transmission and by Electronic Means
- APPENDIX C-6. Civil Practice Law and Rules Article 22—Stay, Motions, Orders and Mandates
- APPENDIX C-7. Civil Practice Law and Rules Article 23—Subpoenas, Oaths and Affirmations
- APPENDIX C-8. Civil Practice Law and Rules Article 25—Undertakings

NEW YORK CIVIL APPELLATE PRACTICE

APPENDIX C-9.	Civil Practice Law and Rules Miscellaneous Sections From Article 32—Accelerated Judgment
APPENDIX C-10.	Civil Practice Law and Rules Miscellaneous Sections from Article 41— Trial by a Jury
APPENDIX C-11.	Civil Practice Law and Rules Article 44— Trial Motions
APPENDIX C-12.	Civil Practice Law and Rules Article 55— Appeals Generally
APPENDIX C-13.	Civil Practice Law and Rules Article 56— Appeals to the Court of Appeals
APPENDIX C-14.	Civil Practice Law and Rules Article 57— Appeals to the Appellate Division
APPENDIX C-15.	Civil Practice Law and Rules Article 78— Proceedings Against Body or Officer
APPENDIX C-16.	Civil Practice Law and Rules Miscellaneous Sections From Article 80—Fees
APPENDIX C-17.	Civil Practice Law and Rules Article 81— Costs Generally
APPENDIX C-18.	Civil Practice Law and Rules Article 82— Amount of Costs
APPENDIX C-19.	Civil Practice Law and Rules Article 83— Disbursements and Additional Allowances
APPENDIX C-20.	Civil Practice Law and Rules Article 84— Taxation of Costs
APPENDIX C-21.	Civil Practice Law and Rules Article 85— Security for Costs
APPENDIX D.	New York Executive Law Article 15— Human Rights Law Section 298
APPENDIX E-1.	Judiciary Law Miscellaneous Sections From Article 2—General Provisions Relating to Courts and Judges
APPENDIX E-2.	Judiciary Law Miscellaneous Sections From Article 3—Court of Appeals
APPENDIX E-3.	Judiciary Law Article 4—Appellate Division
APPENDIX E-4.	Judiciary Law Section 265
APPENDIX F.	New York Family Court Act Article 11—Appeals

TABLE OF CONTENTS

APPENDIX G.	New York Court of Claims Act Sections 24 to 26
APPENDIX H.	New York Uniform Justice Court Act Article 17—Appeals
APPENDIX I.	New York City Civil Court Act Article 17—Appeals
APPENDIX J.	New York Uniform District Court Act Article 17—Appeals
APPENDIX K.	New York Uniform City Court Act Article 17—Appeals
APPENDIX L.	New York Surrogate’s Court Procedure Act Article 27—Appeals
APPENDIX M-1.	New York State Court Rules Part 108. Format of Court Transcripts and Rates of Payment Therefor
APPENDIX M-2.	New York State Court Rules Part 112. Rules of the Chief Administrator of the Courts Pursuant to CPLR Rules 5529 and 9703
APPENDIX M-3.	New York State Court Rules Part 130. Courts and Sanctions
APPENDIX M-4.	New York State Court Rules Part 140. Civil Actions or Proceedings Brought by Inmates
APPENDIX M-5.	New York State Court Rules Part 202. Uniform Civil Rules for the Supreme Court and the County Court, Reproduced in Part
APPENDIX M-6.	New York State Court Rules Part 208. Uniform Civil Rules for the New York City Civil Court, Reproduced in Part
APPENDIX M-7.	New York State Court Rules Part 210. Uniform Civil Rules for the City Courts Outside the City of New York, Reproduced in Part
APPENDIX M-8.	New York State Court Rules, Part 212. Uniform Civil Rules for the District Courts, Reproduced in Part
APPENDIX M-9.	New York State Court Rules, Part 214. Uniform Civil Rules for the Justice Courts, Reproduced in Part
APPENDIX M-10.	New York State Court Rules, Part 215. Use of Recycled Paper

NEW YORK CIVIL APPELLATE PRACTICE

- APPENDIX M-11. Court of Appeals, Part 500, Rules of Practice
- APPENDIX M-12. New York State Court Rules, Appellate Division, First Department, Part 600. Appeals
- APPENDIX M-13. New York State Court Rules, Appellate Term, First Department, Part 640. Rules of Practice
- APPENDIX M-14. New York State Court Rules, Appellate Division, Second Department, Part 670. Rules of Practice
- APPENDIX M-15. New York State Court Rules, Appellate Terms, Second Department, Part 730. Establishment and Jurisdiction of Appellate Terms
- APPENDIX M-16. New York State Court Rules, Appellate Terms, Second Department, Part 731. Rules of Practice for the Appellate Terms
- APPENDIX M-17. New York State Court Rules, Appellate Division, Third Department, Part 850. Rules of Practice
- APPENDIX M-18. New York State Court Rules, Appellate Division, Fourth Department, Part 1000. Rules of Practice
- APPENDIX M-19. New York State Court Rules, Appellate Division, All Departments, Part 1245. Electronic Filing Rules of the Appellate Division
- APPENDIX M-20. New York State Court Rules, Appellate Division, All Departments, Part 1250—Practice Rules of the Appellate Division

**Table of Laws and Rules**

**Table of Cases**

**Index**