

## EXCERPTS OF TIME LIMITS: CIVIL.

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### **CPLR 3:**

If papers commencing an action/proceeding cannot be filed, an ORDER may be filed commencing an action/proceeding in lieu thereof, papers to then be filed within 5 DAYS.

Service must be made within 120 days of filing summons; EXCEPT: if pursuant to Election Law, or if Statute of Limitations is 4 months or less, service shall be made no later than 15 days after expiration thereof.

In the case of SAD or NAIL & MAIL service, the mailing must be made within 20 days (either before or after) of the delivery to a person of SAD OR affixing the summons to the door; proof of service must be filed with the court within 20 days of whichever latter act completes the cycle. Service in these instances is deemed complete 10 days after the proof is filed with the Court.

Person served by mail with an Acknowledgment of Receipt must complete 1 copy of the acknowledgment, and mail it back within 30 days, service is complete as of the date such acknowledgment is mailed back. A person so served has 20 days to answer, counted from the date of mailing back the acknowledgment.

Service by publication: is by Order of the Court, such order to be filed before date of first publication. Publication to commence within 30 days of filing Order, once in each of 4 successive weeks, service completed on 28<sup>th</sup> day after first publication. [Excluding the first day, and including the date noticed (Article 24)]. Publication in a Matrimonial proceeding is once each in 3 successive weeks, complete on 21<sup>st</sup> day.

In the case where service was by any other method than personal delivery, the defendant may challenge a default within 1 year from discovery - but in no event more than 5 years after such default.

A person or corporation (principal) can designate an agent to receive process, such designation good for 3 years unless first revoked.

A person shall answer a summons within 20 days of completed service.

Death, disbarment, or other incapacity of an attorney must be noticed to the client, with an accompanying 30 day STAY in proceedings.

### **CPLR 4:**

Service of a Special Proceeding shall be at least 8 days before the date noticed for

hearing. Answers must be served within 2 days of the hearing, and replies on or before the hearing. If a petition is served at least 12 days before the hearing - and so demands - answers must then be served at least 7 days before the hearing, and replies within 1.

If a Respondent makes an objection to a point of law, and such motion be then denied, must answer within 5 days of the filing of the order. Petitioner may then re-calendar the matter for hearing upon 2 days notice; OR Respondent may re-calendar for hearing after on 7 days notice.

If the Court during pendency of motion orders an extension of time to respond: if the motion is ultimately denied serve pleading within 2 days; ELSE if motion granted, within 5 days. Case can then be re-calendared for hearing upon 2 days' notice.

Disclosure application pursuant to Section 3123 (regarding Admissions of Factual Statements, etc...) shall be noticed at least 3 days before the hearing, with a reply statement within 1 day before.

**CPLR 5:**

If defendant serves demand for change of venue, Plaintiff shall respond in writing within 5 days; else defendant motion within 15 days after service of demand.

When the a summons initially filed in an improper venue is then filed in the appropriate county, service is deemed completed 10 days after filing proof of service.

**CPLR 9:**

Plaintiffs motion to confirm class after 60 days since time to answer expired.

**CPLR 10:**

Parties may be added with ONCE without leave of the Court or stipulation, within 20 days after service or within the timeframe for answering papers.

Substitution of parties extends procedural time limits by 15 days, including after dismissal of the action.

**CPLR 11:**

Poor person appeal: Clerk notifies the stenographer within 2 days of receiving order for transcripts; stenographer prepares such within 20 days.

**CPLR 12:**

No default may be granted in an infant/incompetent/conservatee action until 20 days have passed since a guardian ad litem was appointed; or unless the representative of an has already appeared.

**CPLR 20:**

Judicial Sales can only be set aside up to 1 year afterwards.

**CPLR 21:**

A party served with papers waives objection to defects unless returns papers with a statement within 2 days of service.

**CPLR 22:**

Service of order by first class mail is completed as of date of mailing, 5 days added to any statutorily prescribed period (e.g. APPEAL); if by overnight delivery, add 1 business day.

Service of motion shall be at least 8 days before date noticed for, answers within 2 days before such hearing.

Cross-motions shall be served within 3 days of the hearing.

If notice is served at least 16 days before the hearing - and so demands - answers and motions both then due within 7 days, also replies shall be served at least 1 day before.

Motions for provisional remedies shall be determined within 20 days after submission for decision; all others = 60 days.

**CPLR 23:**

Subpoenas on HOSPITALS shall be served at least 3 days before date noticed for production.

Subpoenas Duces Tecum on a State Library shall be by motion, MOTION served at least 1 day before hearing. SUBPOENA served at least 24 hours before time specified for production.

A person committed to jail for failure to comply with a subpoena shall be produced at least every 90 days for a hearing thereon.

**CPLR 30:**

Responsive pleadings (answers, replies, etc...) shall be made within 20 days following personal delivery, or else 20 days after any other form of completed service (SAD, NAIL&MAIL, etc...).

**EXCEPT, IF** the COMPLAINT is served *with* the SUMMONS; **AND** by any method other than personal delivery; **OR** upon an AGENT of the State or Public Official; **OR** served *outside* of the State, then answer due within 30 days.

If the complaint is not served with the summons, a written demand may be made within time to answer, and then extends such time by an additional 20 days AFTER service of complaint. Service of the complaint shall be within 20 days of the demand; or if no demand, within 20 days of the service of Notice of Appearance.

If the plaintiff has requested medical records in aid of a malpractice action, he can delay filing the Certificate of Merit until 90 days after receipt.

A "Bill of Particulars" addressing specific demands regarding details of the complaint must be provided within 30 days of demand. In a personal injury action, a SUPPLEMENTAL Bill of Particulars may be made at any time EXCEPT within 30 days of trial; other party may then exercise new discovery upon 7 days notice.

In an action for malpractice, after service of a Bill of Particulars - and not more than 60 days following the service of the Certificate of Merit - the defendant may demand arbitration, Plaintiff has 20 days to respond. If Plaintiff elects, defendant must serve "consent of liability" within 20 days.

#### **CPLR 31:**

Parties can accept or reject offer to examine expert witness in medical malpractice cases by reply within 20 days of receiving notice.

Referees' orders are reviewable by motion made within 5 days of entry.

Subpoenas for non-parties to be deposed shall be served at least 20 days beforehand.

Written notice for oral deposition shall be served on every party at least 20 days beforehand; notice for cross-deposition at same time/place must be made at least 10 days before.

Subpoenas upon party's employee must specify the individual's title; such person can - by notice - substitute another individual having the information, at least 10 days before deposition.

Cross-examination to written questions shall be served within 15 days after notice of deposition, re-direct questions within 7, and re-cross within 5.

Errors in deposition notices are waived unless objected to at least 3 days before exam time.

Witness shall read transcript of deposition, add any necessary emendations at the end, and sign within 60 days.

Parties can demand another's verified address, compliance due within 10 days.

Subpoenas to allow access to land or property for inspection must be noticed at least 20 days before.

Physical or mental evaluation of a person - or for the purpose of establishing a blood relationship - must be noticed at least 5 days before.

Objections shall be by response, and within 20 days.

Parties shall be noticed at least 30 days in advance of the intent to introduce business records, and allowed to inspect them. Objections must be raised within 10 days thereafter.

No earlier than 20 days after service of the summons - and no later than 20 days before trial - a party can demand another to specifically admit or swear denial of certain facts; if a party fails to deny or assert privilege within 20 days, the facts are deemed admitted.

Parties served with interrogatories have 20 days to answer.

#### **CPLR 34:**

A case can be "calendared" after joinder, or else 40 days following completion of service. "Note of Issue" shall be filed with Clerk no more than 10 days after service on parties. Any newly added party must also be served with Note of issue within 5 days of such addition..

A case is "abandoned" when marked "off-calendar" and not restored within 1 year.

Motion for Preference, if not requested in Note of Issue, shall be made by any other party within 10 days thereafter.

Plaintiff shall file certificate of malpractice case within 60 days of joinder. Discovery in malpractice shall be completed within 12 months; parties to be ready for trial within 18 months.

A terminally ill party shall be set down for a preliminary conference within 20 days; Discovery to be completed within 90 days; parties to be ready for trial within 1 year.

#### **CPLR 40:**

Motions for the Court to appoint an Advisory Jury or Hearing Referee must be made no later than 20 days from joinder of issue.

**CPLR 41:**

Demand for Jury, if not requested in Note of Issue, may be made by any other party within 15 days after. If the party filing the Note of Issue only specifies *some* of the issues to be tried by a jury, any other party can demand that other issues be so tried, demand due within 10 days.

**CPLR 42:**

Court's decision on bench trial is due within 60 days of final submission; although parties can agree upon a later date.

**CPLR 43:**

Referee's decision is due within 30 days of final submission; else thereafter parties can motion for a new trial, and referee does not get paid.

**CPLR 44:**

Motion to confirm an advisory jury's verdict, or a Referee's Report, shall be made within 15 days of such.

A Court, upon motion of any party, **OR** *sua sponte*, may set aside verdict or decision; and make a judgment on the law, or a new trial of facts. such motions to be made to the Trial Judge, within 15 days; **EXCEPT:** the Judge has no power if the matter already argued OR submitted on Appeal.

**CPLR 50:**

On a "Settled" action, payment due by defendant within 21 days of plaintiff's "tender" of necessary papers. Public agency NOT indemnified by State has 90 days. IF so indemnified, Comptroller has 90 days from certification that all necessary papers have been received.

When a judgment for damages is made on behalf of a prisoner, the Court shall notify the Crime Victims Board promptly in writing, and shall also direct that no payment be made for 30 days.

No further action on a money judgment is generally allowed unless 10 years have elapsed since the first docketing.

Motion for "excusable default" shall be made within 1 year of entry/service of

order.

Satisfaction Piece upon FULL recovery is due within 20 days.

A Sheriff provided with an execution on a judgment from a City/District/Uniform Justice Court shall "return" within 90 days, even if unsatisfied.

### **CPLR 52:**

Exemption of income from labor or services is against money judgment, starts from 60 days prior to execution.

Execution after the death of a debtor shall be on order of the Surrogates Court which issued letters, or another court if no letters issue within 18 months.

A lien on property expires no earlier than 2 years after the death of a debtor, if such date is later than the standard 10 years post roll filing.

Any Court which can hear Special Proceeding to enforce a judgment, may also confer immunity from a criminal action upon a witness in such proceeding, on at least 24 hours' notice to the interested District Attorney.

If the debtor had not been noticed of the possible issuance of a restraining notice OR income execution within 1 year beforehand, then he/she must receive such notice within 4 days of service upon the garnishee.

Answer to an Information Subpoena must be made within 7 days.

A Deposition may be taken on at least 10 days notice; generally only one examination of a debtor can be made in a single year.

Sheriff shall "return" an execution on money judgment within 60 days; executions may be extended for additional periods not more than 60 days each.

Income Executions are served on debtor within 20 days of delivery to the sheriff. Debtor has 20 days after service to pay installments voluntarily.

Income Execution is null and void upon the debtor's termination of employment, unless reinstated within 90 days. An Income Execution on the State as employer is effective after 15 days. Where multiple executions, priority assigned to whichever first delivered to sheriff; if execution was returned by sheriff, and then re-delivered to another appropriate sheriff within 20 days thereafter, priority remains from the date **first** delivered. A sheriff receiving monies from an execution shall account for same, and pay out to creditor at least every 90 days.

A Sheriff's levy upon the **interest** in personal property not capable of delivery of

a debtor, held by a garnishee, expires in 90 days (unless Court directs otherwise).

A Public Auction of debtor's personal property shall be on at least 6 days notice; no distribution of proceeds from such sale shall be until 15 days after service of the execution upon the debtor.

Sheriff can levy on Real Property 10 years after filing of judgment roll.

Printed notices of the public auction for real property shall be posted at least 56 days before auction, at least once in each of 4 consecutive periods of 14 days each. Auction shall be between the 56th and 63rd day of first posting. At least 45 days prior to sale, the creditor shall provide the Sheriff with the debtor's name & address, as well as those for any other creditor having a lien on the property, and any other person with legal interest. The sheriff shall serve all such parties within 30 days before. Such notice to be also published in a newspaper at least once in each of 4 consecutive periods of 14 days.

Upon sale, sheriff shall convey deed and proof of required notice to the purchaser within 10 days.

An Income Execution by SCU is effective no later than 1st pay period after 14 days from service; employer to remit money within 7 days of withholding. An objection by a debtor for "mistake of fact" shall be made to SCU or Court within 15 days after service of execution, and shall be determined within 45 days of such objection.

A greater percentage of a child support obligor's income may be taken when arrear accrued for more than 12 weeks.

Child Support Income Deduction Order (IDO): remission of monies is within **10** days.

An employee discriminated against because of income execution may commence an action within 90 days for damages not exceeding 6 weeks wages.

### **CPLR 55:**

Appeals - or motions for permission to appeal - shall be made within 30 days after service of the order appealed; except when statutory period extended due to manner of service of underlying order.

Cross-Appeal may be taken within 10 days of service of the Notice of Appeal, notwithstanding that the period in which to appeal such order be already expired.

The disability or death of a party's attorney *before* the time to appeal expires, extends such time until 60 days after such death or disability.

Motions for permission to appeal shall be noticed for the next available motion



day at least 8 days after date of notice, and not more than 15 (unless later if no earlier motion day).

STAY of judgment on appeal continues until 5 days after service of order on appeal; if such appellate order be then appealed *within such 5 days*, stay continues until 5 days after NEW order.

The Appellant shall make any changes to the transcript deemed necessary, and serve the transcript with amendments upon the Respondent within 15 days or original receipt. The Respondent may then make corrections/amendments, and send it back within 15 days of service. Afterwards; the Judge or other trier shall SETTLE the transcript on request of either party, on 4 days notice to the other.

If there was no stenographic record, the Respondent shall make any changes necessary to Appellant's STATEMENT, and send back within 10 days. Trier to settle statement any time thereafter, without notice.

Appellant files brief within 20 days of settlement of transcript/statement, Respondent replies with own brief within 15 days thereafter; Appellant can then respond to the reply within 10 days.

**CPLR 63:**

The Supreme Court may enjoin the sale or distribution of "obscene prints", as defined in Penal Law section 235.00. The Plaintiff would be the District Attorney, Chief Executive, Corporation Counsel, or other Chief Legal Officer. Defendant is entitled to trial within 1 day of joinder; decision within 2 days of verdict/decision.

**CPLR 70:**

A party served with a writ of habeas corpus shall make a "return" within 24 hours.

A hearing pursuant to detention on mandate shall be on at least 8 days notice.

**CPLR 78:**

Service shall be at least 20 days before hearing; answer of adverse party within 5, reply in 1.

**RPAPL 7:**

A LANDLORD/TENANT relationship includes any *non-transient* occupying a hotel or rooming house for more than 30 consecutive days.

Service of written notice requiring rent or surrender of premises shall be at least 3 days before proceeding.

If a tenant dies during the lease, action can commence 3 months after death, against the surviving spouse, issue (children), or distributee.

A tenant within any CITY is in defaults of rent or agreement to pay taxes after at least 60 days.

Bankruptcy/insolvency of tenant is only grounds if lease = less than 3 years left.

Action in a city with a population greater than 1 million for removal/damage of smoke detectors: a prior order of the Court addressing such violation shall have been served at least 30 days before new report - and provided that the tenant shall be afforded 10 days thereafter to cure the condition.

Where NO landlord/tenant relationship exists, a Notice to Quit shall be made at least 10 days before filing special proceeding.

ILLEGAL USE: Proper party may serve written notice on a landlord demanding that such landlord remove tenant, landlord has 5 days to comply.

On a non-payment proceeding, **IF** the appropriate Appellate Division enacts such rules: the Notice shall be returnable before the CLERK within 5 days. If the Respondent ANSWERS, the Clerk shall set matter down for hearing between 3 to 8 days. If DEFAULT, Court **MAY** stay the warrant of eviction not more than 10 days from time of service.

If Appellate Division does NOT enact above rules, procedure as follows: service at least 5 days - no more than 12 - before hearing. If a tenant stays in the property after the lease/agreement expired: an Order to Show Cause may be sought on the day of expiration, or the next day, and such - if signed - is served by the specified time, at least 2 hours before hearing.

In Westchester, certain proceedings against a residential tenant may also need to be served on the Department of Social Services by certified mail (return receipt requested), within 5 days.

IF SAD or NAIL service, must also mail the petition within 1 day of SAD/NAIL.

Petition/Notice/Proof of Service to be filed with Clerk within 3 days. If personally delivered, service "complete" on date of such delivery; in any other case, service is complete upon *filing*.

If service of the petition was made at least 8 days before hearing, AND so demanded: answer within 3 days; replies then due at least 1 day before hearing.

Trial may not be adjourned for more than 10 days except on consent of all parties.

In NYC: after 2nd adjournment *pursuant to Respondent's request* [including an adjournment for the purposes or seeking counsel], **OR** the 30th day [excluding any adjournments by Petitioner] (whichever earlier), the Petitioner may apply for - and the Court **shall** grant - a requirement that the Respondent pay all rents due by deposit with the Court, within 5 days thereafter.

A Judgment for rent arrears shall NOT bar action to recover possession; nor any other relief not asked for because of the Court's limited jurisdiction, if action thereupon made within 60 days.

In NYC: in a non-payment proceeding where the Respondent appeared, the Court **SHALL NOT** stay issuance of a "warrant of eviction" OR order allowing re-letting of premises, after more than 5 days have elapsed since judgment

The Sheriff shall provide 72 hours written notice before executing Warrant of Eviction; thereafter between sunrise and sunset.

**OUTSIDE NYC:** a STAY in proceedings for holdover may be had by *undertaking* to pay within 10 days

**IN NYC:** pursuant to a holdover proceeding for a DWELLING, stay for hardship lasts maximum = 6 months. [ \*\* PRIOR STATUTORY PROVISION FOR SIMILAR STAY *OUTSIDE* NYC FOR 4 MONTH MAXIMUM, **EXPIRED** \*\*].

Where the tenant is allegedly "objectionable", tenant has 10 days to correct problem.

A stay of dispossession for tenant "constructively evicted" by failure repairs shall be vacated only with 3 days notice of hearing. During such stay, the tenant **must** deposit rent with the Court within 5 days.

In the case of default on rent for lease, with more than 5 years still outstanding at the time the eviction warrant issues: tenant may REDEEM within 1 year by paying owner; OR instead, if the tenant cannot locate the owner/landlord in city/town where property located, by depositing the money with Clerk within 5 days before expiration of 1 year time limit.

If such tenant NOT redeem, tenant's creditor may redeem by 2:00 PM on next day after (if not Sunday, legal holiday).

After redemption, party can possess premises until next May 1st, at Noon.

Petition to the Court after redemption by Order to Show Cause, returnable in not less than 2, nor more than 10 days before hearing.

**RULES 202:**

TERMS of Court are 4 week periods, 13 such periods a year.

If papers are faxed/filed electronically, Clerk shall provide index number by next business day.

Motions for Disclosure - or a Bill of Particulars - with RJI shall be returnable before the COURT in general within 5 days. If no preliminary conference has been set, such conference to be held within 45 days of the motion return date. No stipulated adjournments more than 3 in number, or for more than 60 days total, may be made regarding such return date without leave of the Court.

Otherwise, preliminary conference shall be within 45 days of date when RJI filed. The period for disclosure shall be set at such preliminary conference, to be complete within: 12 months from RJI on a standard case; or 15 months for a complex action. [Pursuant to types of actions designated by the Chief Administrator as "Differentiated Case Management" procedures, an expedited period of 8 months may also be applied].

Motions must be decided by a Judge within 60 days from final submission of all papers; however a Judge who feels that a motion is unusually complex may apply to the *Administrative Judge* within 20 days of submission; if such designation be confirmed, decision then due within 120 days.

Objections to Video Deposition shall be made within 10 days.

Matrimonial actions shall require that an RJI be filed within 45 days after service; unless both parties stipulate that such is not necessary ("no necessity"), then within 120 days. "Statement of net worth" from both parties, AND their attorney's retainer agreement, as well as paychecks, W2s, and tax returns must be turned over within 10 days before the preliminary conference. Trial in a non-complex matrimonial proceeding shall be set within 6 months of such conference. The Court may also direct a list of proposed law guardians, as well as of expert witnesses, be furnished within 30 days after preliminary conference. Custody cases shall be tried day-to-day; as well as any other matter if practicable.

In a personal injury or wrongful death action, any physical examination to be done shall be on notice of between 30 and 60 days *after* joinder of issue AND filing Bill of Particulars. Medical reports shall be turned over at least 20 days before such exam.

In any "Differentiated Case Management" (DCM) action, a "compliance" conference shall be set at least 60 days before scheduled completion of discovery. At the time of such conference, the Court shall set the limit by when Note of Issue must be filed. a Pre-Trial conference is held within 180 days of filing the Note of Issue, and fixes trial date no later than 8 weeks.

Otherwise, in all non-DCM cases, Pre-trial conference shall be held within 15 to

45 days before trial. Any Stipulation of Discontinuance must be made within 20 days after such conference; but in any event, *before* the date noticed for court activity.

A case is marked ready for trial upon Note of Issue, together with Certificate of Readiness, which shall be served on all parties, and filed with court within 10 days thereafter. Application to vacate a Note of Issue must be made within 20 days of filing.

Objection to Preference request shall be within 20 days of the Note of Issue requesting it; or if it was requested by motion of another such party, within 10 days of such notice. Rebuttal papers may be served within 5 days.

If another attorney will conduct the trial on behalf of counsel of record, written notice must be provided to Court and all other parties within 15 days after pre-trial conference; or, if no such conference held, at least 10 days before trial.

A Plaintiff may object to a Referee's report within 15 days of filing; if plaintiff chooses not to, defendant may do so within 30 days.

If the Court directs a case to be settled: proposed order must be completed within 60 days thereafter, and served on all other parties personally at least 5 days before date noticed for settlement, or 10 days if by mail. Counter-proposals shall be personally served at least 2 days before, or 7 days if by mail.