

CPLR ARTICLE 22:
STAYS/MOTIONS/ORDERS.

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Applications for STAYS shall be sought in the Court of PENDENCY.

“ON NOTICE” = SERVED.

Supreme Court MOTIONS shall be NOTICED to be heard in the Judicial District - or Adjoining County - where the action is triable. It shall be before the MOTION TERM; or “out-of-court” before the Judge who granted the Order to Show Cause (OTSC).

EX PARTE (non-noticed) Supreme Court MOTIONS may be to *ANY* out-of-court Justice in *ANY* State county.

If Supreme Court is not in session, the Chief Administrator may by RULE allow motions to be heard in the County Court of the county of venue; provided that the counties of NYC shall have “uniform” practice.

Ex-parte County Court motions may be made to *ANY* County Court judge in *ANY* county.

If the County Court is unavailable, motions *may* be made in Supreme Court of same Judicial District OR an “adjoining county”; EXCEPT for DISPOSITIONAL MOTIONS (which end a case) [unless for SETTLEMENT].

NOTICE OF MOTION shall specify the time/place of hearing, supporting papers, and relief(s) requested.

SERVICE shall be at least 8 days before date noticed for, ANSWERS within 2 days of 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 as well as any cross-motions must be at least 7 days before; REPLIES then due at least 1 day before!

The court shall be furnished with all papers served, and shall consider no others except for “good cause”.

The court *may* grant an Order to Show Cause (OTSC) to be served in lieu of Notice.

If serving a State body, must also serve the Attorney General.

Motions **MAY** be referred to the Judge that decided the prior motion.

Ex Parte motions shall be accompanied by an AFFIDAVIT addressing prior application and outcomes, as well as any new facts.

Motions **MAY** be transferred by order or written stipulation if a Judge cannot continue to hear a case.

The Chief Administrator **may** exclude counties from these voluntary practices.

Court **MAY** order separate trials of motions; shall specify in such order the issue to be so tried.

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

Motions shall be determined by written order, the same form of which is used whether in-court or -out. Order made upon supporting papers shall be **SIGNED OR INITIALED**. Order shall state Court where Judge sits, as well as the place & date of signature; and recite all papers upon which the determination was based.

EXCEPT in Town or Village Courts: order must be reduced to writing or otherwise recorded upon the request of any party.

Orders of the Appellate Court **must** be signed by a justice thereof; **EXCEPT:** upon written authorization of the presiding judge, **may** be signed by the Clerk of Court [or DEPUTY] (due to absence or disability).

Order shall be ENTERED and FILED with the Clerk of Court where action is triable (unless so dispensed with by the order itself).

If required by law to be filed in another county, order shall be so filed by PREVAILING PARTY; and may be VACATED as “irregular” upon failure to comply herewith.

COPY of order must also be served on other party(ies).

A motion on an order shall be noticed for the judge that made the order; **EXCEPT** that an order on DEFAULT **may** be motioned before **ANY** judge of that court.

Motions to RENEW/REARGUE an order made without notice (EX-PARTE) **may** be WITHOUT NOTICE to the judge who signed the order; **OR** ON NOTICE to *any* other judge of that court.

Motions made before a judge other than the proper judge **SHALL** be transferred.

Motion to REARGUE must be so identified, and must only concern matters overlooked/misapprehended, not any new facts; and must be within 30 days of service of the order. [**THIS SECTION DOES NOT APPLY to the APPELLATE DIVISION or COURT OF APPEALS!**]

Motion to RENEW must so identify, be based on newly discovered facts or new law, and must state justification of failure to present prior.

Combined motion for RENEW/REARGUE may be made, shall identify the issues separately, and be determined separately.

CLERK shall docket an order on motion as a judgment upon request; including in the Section and Block Index to the extent that it concerns Real Property.

An OFFICER receiving a MANDATE shall execute the mandate; shall upon request - and without compensation - give a receipt; and shall, upon request - and without compensation - deliver copy of mandate to person served. Officer shall then deliver **OR** mail the mandate - plus "RETURN" - to the Clerks office.