

McKinney's Consolidated Laws of New York Annotated
Civil Practice Law and Rules (Refs & Annos)
Chapter Eight. Of the Consolidated Laws
Article 22. Stay, Motions, Orders and Mandates (Refs & Annos)

McKinney's CPLR Rule 2214

Rule 2214. Motion papers; service; time

Effective: July 22, 2014
Currentness

(a) Notice of motion. A notice of motion shall specify the time and place of the hearing on the motion, the supporting papers upon which the motion is based, the relief demanded and the grounds therefor. Relief in the alternative or of several different types may be demanded.

(b) Time for service of notice and affidavits. A notice of motion and supporting affidavits shall be served at least eight days before the time at which the motion is noticed to be heard. Answering affidavits shall be served at least two days before such time. Answering affidavits and any notice of cross-motion, with supporting papers, if any, shall be served at least seven days before such time if a notice of motion served at least sixteen days before such time so demands; whereupon any reply or responding affidavits shall be served at least one day before such time.

(c) Furnishing papers to the court. Each party shall furnish to the court all papers served by that party. The moving party shall furnish all other papers not already in the possession of the court necessary to the consideration of the questions involved. Except when the rules of the court provide otherwise, in an e-filed action, a party that files papers in connection with a motion need not include copies of papers that were filed previously electronically with the court, but may make reference to them, giving the docket numbers on the e-filing system. Where such papers are in the possession of an adverse party, they shall be produced by that party at the hearing on notice served with the motion papers. Only papers served in accordance with the provisions of this rule shall be read in support of, or in opposition to, the motion, unless the court for good cause shall otherwise direct.

(d) Order to show cause. The court in a proper case may grant an order to show cause, to be served in lieu of a notice of motion, at a time and in a manner specified therein. An order to show cause against a state body or officers must be served in addition to service upon the defendant or respondent state body or officers upon the attorney general by delivery to an assistant attorney general at an office of the attorney general in the county in which venue of the action is designated or if there is no office of the attorney general in such county, at the office of the attorney general nearest such county.

Credits

(L.1962, c. 308. Amended L.1972, c. 752, § 1; L.1984, c. 177, § 1; L.2007, c. 185, § 1, eff. July 3, 2007; L.2014, c. 109, § 1, eff. July 22, 2014.)

McKinney's CPLR Rule 2214, NY CPLR Rule 2214
Current through L.2018, chapters 1 to 187.

McKinney's Consolidated Laws of New York Annotated
Civil Practice Law and Rules (Refs & Annos)
Chapter Eight. Of the Consolidated Laws
Article 22. Stay, Motions, Orders and Mandates (Refs & Annos)

McKinney's CPLR Rule 2215

Rule 2215. Relief demanded by other than moving party

Effective: July 3, 2007
Currentness

At least three days prior to the time at which the motion is noticed to be heard, or seven days prior to such time if demand is properly made pursuant to subdivision (b) of rule 2214, a party may serve upon the moving party a notice of cross-motion demanding relief, with or without supporting papers; provided, however, that:

(a) if such notice and any supporting papers are served by mailing, as provided in paragraph two of subdivision (b) of rule 2103, they shall be served three days earlier than as prescribed in this rule; and

(b) if served by overnight delivery, as provided in paragraph six of subdivision (b) of rule 2103, they shall be served one day earlier than as prescribed in this rule. Relief in the alternative or of several different types may be demanded; relief need not be responsive to that demanded by the moving party.

Credits

(L.1962, c. 308. Amended L.1980, c. 132, § 1; L.2007, c. 185, § 2, eff. July 3, 2007.)

McKinney's CPLR Rule 2215, NY CPLR Rule 2215
Current through L.2018, chapters 1 to 120.

McKinney's Consolidated Laws of New York Annotated
Civil Practice Law and Rules (Refs & Annos)
Chapter Eight. Of the Consolidated Laws
Article 21. Papers

McKinney's CPLR Rule 2103

Rule 2103. Service of papers

Effective: January 1, 2016

Currentness

(a) Who can serve. Except where otherwise prescribed by law or order of court, papers may be served by any person not a party of the age of eighteen years or over.

(b) Upon an attorney. Except where otherwise prescribed by law or order of court, papers to be served upon a party in a pending action shall be served upon the party's attorney. Where the same attorney appears for two or more parties, only one copy need be served upon the attorney. Such service upon an attorney shall be made:

1. by delivering the paper to the attorney personally; or

2. by mailing the paper to the attorney at the address designated by that attorney for that purpose or, if none is designated, at the attorney's last known address; service by mail shall be complete upon mailing; where a period of time prescribed by law is measured from the service of a paper and service is by mail, five days shall be added to the prescribed period if the mailing is made within the state and six days if the mailing is made from outside the state but within the geographic boundaries of the United States; or

3. if the attorney's office is open, by leaving the paper with a person in charge, or if no person is in charge, by leaving it in a conspicuous place; or if the attorney's office is not open, by depositing the paper, enclosed in a sealed wrapper directed to the attorney, in the attorney's office letter drop or box; or

4. by leaving it at the attorney's residence within the state with a person of suitable age and discretion. Service upon an attorney shall not be made at the attorney's residence unless service at the attorney's office cannot be made; or

5. by transmitting the paper to the attorney by facsimile transmission, provided that a facsimile telephone number is designated by the attorney for that purpose. Service by facsimile transmission shall be complete upon the receipt by the sender of a signal from the equipment of the attorney served indicating that the transmission was received, and the mailing of a copy of the paper to that attorney. The designation of a facsimile telephone number in the address block subscribed on a paper served or filed in the course of an action or proceeding shall constitute consent to service by facsimile transmission in accordance with this subdivision. An attorney may change or rescind a facsimile telephone number by serving a notice on the other parties; or

6. by dispatching the paper to the attorney by overnight delivery service at the address designated by the attorney for that purpose or, if none is designated, at the attorney's last known address. Service by overnight delivery service shall be complete upon deposit of the paper enclosed in a properly addressed wrapper into the custody of the overnight delivery service for overnight delivery, prior to the latest time designated by the overnight delivery service for overnight delivery. Where a period of time prescribed by law is measured from the service of a paper and service is by overnight delivery, one business day shall be added to the prescribed period. "Overnight delivery service" means any delivery service which regularly accepts items for overnight delivery to any address in the state; or

7. by transmitting the paper to the attorney by electronic means where and in the manner authorized by the chief administrator of the courts by rule and, unless such rule shall otherwise provide, such transmission shall be upon the party's written consent. The subject matter heading for each paper sent by electronic means must indicate that the matter being transmitted electronically is related to a court proceeding.

(c) Upon a party. If a party has not appeared by an attorney or the party's attorney cannot be served, service shall be upon the party by a method specified in paragraph one, two, four, five or six of subdivision (b) of this rule.

(d) Filing. If a paper cannot be served by any of the methods specified in subdivisions (b) and (c), service may be made by filing the paper as if it were a paper required to be filed.

(e) Parties to be served. Each paper served on any party shall be served on every other party who has appeared, except as otherwise may be provided by court order or as provided in section 3012 or in subdivision (f) of section 3215. Upon demand by a party, the plaintiff shall supply that party with a list of those who have appeared and the names and addresses of their attorneys.

(f) Definitions. For the purposes of this rule:

1. "Mailing" means the deposit of a paper enclosed in a first class postpaid wrapper, addressed to the address designated by a person for that purpose or, if none is designated, at that person's last known address, in a post office or official depository under the exclusive care and custody of the United States Postal Service within the United States;

2. "Electronic means" means any method of transmission of information between computers or other machines designed for the purpose of sending and receiving such transmissions, and which allows the recipient to reproduce the information transmitted in a tangible medium of expression;

3. "Facsimile transmission" means any method of transmission of documents to a facsimile machine at a remote location which can automatically produce a tangible copy of such documents.

Credits

(L.1962, c. 308. Amended L.1963, c. 539, § 1; Jud.Conf.1971 Proposal No. 1; L.1982, c. 20, § 1; L.1989, c. 461, § 1; L.1989, c. 478, §§ 1, 2; L.1990, c. 244, § 1; L.1999, c. 367, §§ 3 to 5, eff. July 27, 1999; L.2009, c. 416, § 1, eff. Sept. 1, 2009; L.2015, c. 572, §§ 1, 2, eff. Jan. 1, 2016.)

Compilation of Codes, Rules and Regulations of the State of New York Currentness
Title 22. Judiciary
Subtitle A. Judicial Administration.
Chapter II. Uniform Rules for the New York State Trial Courts
Part 202. Uniform Civil Rules for the Supreme Court and the County Court (Refs & Annos)

22 NYCRR 202.8

Section 202.8. Motion procedure

(a) All motions shall be returnable before the assigned judge, and all papers shall be filed with the court on or before the return date.

(b) Special procedure for unassigned cases. If a case has not been assigned to a judge, the motion shall be made returnable before the court, and a copy of the moving papers, together with a request for judicial intervention, shall be filed with the court, with proof of service upon all other parties, where required by section 202.6 of this Part, within five days of service upon the other parties. The moving party shall give written notice of the index number to all other parties immediately after filing of the papers. Copies of all responding papers shall be submitted to the court, with proof of service and with the index number set forth in the papers, on or before the return date. The case shall be assigned to a judge as soon as practicable after the filing of the request for judicial intervention pursuant to section 202.6 of this Part, but in no event later than the return date. After assignment to the judge, the court shall provide for appropriate notice to the parties of the name of the assigned judge. Motion papers noticed to be heard in a county other than the county where the venue of the action has been placed by the plaintiff shall be assigned to a judge in accordance with procedures established by the Chief Administrator.

(c) The moving party shall serve copies of all affidavits and briefs upon all other parties at the time of service of the notice of motion. The answering party shall serve copies of all affidavits and briefs as required by CPLR 2214. Affidavits shall be for a statement of the relevant facts, and briefs shall be for a statement of the relevant law.

(d) Motion papers received by the clerk of the court on or before the return date shall be deemed submitted as of the return date. The assigned judge, in his or her discretion or at the request of a party, thereafter may determine that any motion be orally argued and may fix a time for oral argument. A party requesting oral argument shall set forth such request in its notice of motion or in its order to show cause or on the first page of the answering papers, as the case may be. Where all parties to a motion request oral argument, oral argument shall be granted unless the court shall determine it to be unnecessary. Where a motion is brought on by order to show cause, the court may set forth in the order that oral argument is required on the return date of the motion.

(e)

(1) Stipulations of adjournment of the return date made by the parties shall be in writing and shall be submitted to the assigned judge. Such stipulation shall be effective unless the court otherwise directs. No more than three stipulated adjournments for an aggregate period of 60 days shall be submitted without prior permission of the court.

(2) Absent agreement by the parties, a request by any party for an adjournment shall be submitted in writing, upon notice to the other party, to the assigned judge on or before the return date. The court will notify the requesting party whether the adjournment has been granted.

(f) Where the motion relates to disclosure or to a bill of particulars, and a preliminary conference has not been held, the court shall notify all parties of a scheduled date to appear for a preliminary conference, which shall be not more than 45 days from the return date of the motion unless the court orders otherwise, and a form of a stipulation and order, prescribed by the Chief Administrator of the Courts, shall be made available which the parties may sign, agreeing to a timetable which shall provide for completion of disclosure within 12 months, and for a resolution of any other issues raised by the motion. If all parties sign the form and return it to the court before the return date of the motion, such form shall be "so ordered" by the court, and the motion shall be deemed withdrawn. If such stipulation is not returned by all parties, the conference shall be held on the assigned date. Issues raised by the motion and not resolved at the conference shall be determined by the court.

(g) Unless the circumstances require settlement of an order, a judge shall incorporate into the decision an order effecting the relief specified in the decision.

(h) Reports of pending motions in the Supreme Court.

(1) To assist in preparing the quarterly report of pending civil matters required by section 4.1 of the Rules of the Chief Judge, the Chief Administrator of the Court or his or her designee shall provide to a justice of the Supreme Court, upon request, an automated open motion report of all motions pending before the justice which appear undecided 60 days after final submission. This open motion report may be used by the justice to assist in the preparation of his or her official quarterly report.

(2) Since motions are decided on a daily basis and further submissions may be received on a pending motion, the only report that shall be considered current is the official quarterly report submitted by the particular justice.

Credits

Sec. filed Jan. 9, 1986; amds. filed: Feb. 16, 1988; Dec. 14, 1992; Jan. 9, 2006; March 27, 2006; July 21, 2006; Nov. 13, 2007 eff. Nov. 7, 2007. Amended (h).

Current with amendments included in the New York State Register, Volume XXL, Issue 32 dated August 8, 2018.

22 NYCRR 202.8, 22 NY ADC 202.8

Compilation of Codes, Rules and Regulations of the State of New York Currentness

Title 22. Judiciary

Subtitle A. Judicial Administration.

Chapter II. Uniform Rules for the New York State Trial Courts

Part 202. Uniform Civil Rules for the Supreme Court and the County Court (Refs & Annos)

22 NYCRR 202.7

Section 202.7. Calendaring of motions; uniform notice of motion form; affirmation of good faith

(a) There shall be compliance with the procedures prescribed in the CPLR for the bringing of motions. In addition, except as provided in subdivision (d) of this section, no motion shall be filed with the court unless there have been served and filed with the motion papers (1) a notice of motion, and (2) with respect to a motion relating to disclosure or to a bill of particulars, an affirmation that counsel has conferred with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion.

(b) The notice of motion shall read substantially as follows:

_____ COURT OF THE STATE OF NEW YORK
COUNTY OF _____

_____ x

A.B.,

Notice of Motion Index No.

Plaintiff,

-against- _____

C.D., Name of Assigned Judge

Defendant.

_____ x

Oral argument is requested []

(check box if applicable)

Upon the affidavit of _____, sworn to on _____, 19 _____, and upon (list supporting papers if any), the . . . will move this court (in Room _____) at the _____ Courthouse, _____ New York, on the _____ day of _____, 19 _____, at _____ (a.m.) (p.m.) for an order (briefly indicate relief requested).

The above-entitled action is for (briefly state nature of action, e.g., personal injury, medical malpractice, divorce, etc.).

This is a motion for or related to interim maintenance or child support. []

(check box if applicable)

An affirmation that a good faith effort has been made to resolve the issues raised in this motion is annexed hereto.

(required only where the motion relates to disclosures or to a bill of particulars)

Pursuant to CPLR 2214(b), answering affidavits, if any, are required to be served upon the undersigned at least seven days before the return date of this motion. []

(check box if applicable)

Dated:

(print name)

Attorney¹ (or attorney in charge
of case if law firm) for moving party.

Address:

Telephone number:

(print name)

TO: _____

Attorney¹ for (other party)

Address:

Telephone number:

(print name)

Attorney¹ for (other party)

Address:

Telephone number:

¹ If any party is appearing pro se, the name, address and telephone number of such party shall be stated.

(c) The affirmation of the good faith effort to resolve the issues raised by the motion shall indicate the time, place and nature of the consultation and the issues discussed and any resolutions, or shall indicate good cause why no such conferral with counsel for opposing parties was held.

(d) An order to show cause or an application for ex parte relief need not contain the notice of motion set forth in this section, but shall contain the affirmation of good faith set forth in this section if such affirmation otherwise is required by this section.

(e) Ex parte motions submitted to a judge outside of the county where the underlying action is venued or will be venued shall be referred to the appropriate court in the county of venue unless the judge determines that the urgency of the motion requires immediate determination.

(f) Any application for temporary injunctive relief, including but not limited to a motion for a stay or a temporary restraining order, shall contain, in addition to the other information required by this section, an affirmation demonstrating there will be significant prejudice to the party seeking the restraining order by the giving of notice. In the absence of a showing of significant prejudice, the affirmation must demonstrate that a good faith effort has been made to notify the party against whom the temporary restraining order is sought of the time, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application. This subdivision shall not be applicable to orders to show cause or motions in special proceedings brought under article 7 of the Real Property Actions and Proceedings Law, nor to orders to show cause or motions requesting an order of protection under section 240 of the Domestic Relations Law, unless otherwise ordered by the court.

Credits

Sec. filed Jan. 9, 1986; ams. filed: Feb. 16, 1988; July 31, 2006; Feb. 20, 2007; June 14, 2007 eff. June 11, 2007. Amended (f).

Current with amendments included in the New York State Register, Volume XXL, Issue 33 dated August 15, 2018.

22 NYCRR 202.7, 22 NY ADC 202.7

End of Document

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..... COURT OF THE STATE OF NEW YORK
COUNTY OF

.....X

A.B.,

Plaintiff,

Notice of Motion
Index No.

-against-

C.D.,

Defendant.

.....
Name of Assigned Judge

.....
Oral argument is requested
(check box if applicable)

.....X

Upon the affidavit of, sworn to on, 20..., and upon (list supporting papers if any), the will move this court (in Room) at the Courthouse,, New York, on the day of, 20..., at (a.m.) (p.m.) for an order (briefly indicate relief requested).

The above-entitled action is for (briefly state nature of action, e.g., personal injury, medical malpractice, divorce, etc.).

This is a motion for or related to interim maintenance or child support.
(check box if applicable)

An affirmation in compliance with Uniform Rule section 202.7 (a) and (c) that a good faith effort has been made to resolve the issues raised in this motion is annexed hereto. (required only where the motion relates to disclosure or to a bill of particulars)

Pursuant to CPLR 2214(b), any answering affidavits, and any notice of cross-motion and accompanying papers, are required to be served upon the undersigned at least seven days before the return date of this motion. See CPLR 2215. (check box if applicable)

Dated:

.....
[Signature]

.....
[Print name]

Attorney¹ (or attorney in charge of case if law firm) for moving party.

Address:

Telephone number:

TO:
[Print name]

Attorney¹ for (other party)

Address:

Telephone number:

.....
[Print name]

Attorney¹ for (other party)

Address:

Telephone number:

¹ If any party is appearing pro se, the name, address, and telephone number of the party shall be stated.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

A.B., Plaintiff,

against

C.D. and E.F., Defendants.

Order to Show Cause

Index No. _____

Upon the affidavits of C.D. and his attorney, J.R., sworn to on March 10, 2018, and upon the default judgment entered in the office of the clerk of this court on February 8, 2018, and upon a copy of an execution issued to the Sheriff of the City of New York in this action and bearing receipt date of March 1, 2018, and upon all prior papers and proceedings in this cause, it is hereby

ORDERED, that the plaintiff show cause before this court, at IAS Part 27, to be held at the Courthouse at 60 Centre Street in the City and County of New York, at 9:30 a.m. on March 16, 2018, why an order should not be entered in this action vacating the execution and the judgment in this action in its entirety for lack of jurisdiction and for total lack of service of process of any kind, or granting such other and further relief as may seem just and proper to the court; and it is further

ORDERED, that until further order of this court and pending the hearing and determination of this application, the plaintiff and his attorney and all purporting to act in his behalf, and the Sheriff of the City of New York, are hereby stayed from taking any further step to levy the execution or otherwise enforce the judgment.

LET SERVICE of a copy of this order and of the papers on which it is based, by personal delivery to the plaintiff's attorney, or to a person of suitable age and discretion at his office, and to the Sheriff of the City of New York, or to a deputy Sheriff in the County of New York, on or before March 12, 2018, be deemed sufficient service thereof.

This order has been signed by me this 11th day of March, 2018, and shall upon presentation be entered in the office of the clerk.

[Signature]

Ira Gammerman
Justice, Supreme Court
New York County

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

-----X
In the matter of the Application of

DIANE [REDACTED]

Petitioner,

ATTORNEY CERTIFICATION
OF POOR PERSON STATUS
PURSUANT TO CPLR §1101

For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules,

Index No.: _____

-against -

SAMUEL D. ROBERTS, as Commissioner of the New York
State Office of Temporary and Disability Assistance; and

DENIS SHEEHAN, as Director of the New York State
Supplement Program.

Respondents.
-----X

To: Clerk of the Court:

1. I affirm that I am an attorney associated with LEGAL ASSISTANCE OF
WESTERN NEW YORK, INC., a not-for-profit organization pursuant to §495(7) of the
Judiciary Law, which has as its primary purpose the furnishing of legal services to indigent
persons.

2. LEGAL ASSISTANCE OF WESTERN NEW YORK, INC. has determined that
Diane [REDACTED] is unable to pay the costs, fees and expenses necessary to prosecute or defend
this action.

DATED: July 18, 2018



LEGAL ASSISTANCE OF WESTERN NEW YORK INC.
Attorney for Petitioner, Diane Sherwood
Ellen Rita Heidrick, of counsel
16 West William Street
P.O. Box 272
Bath, New York 14810
Tel: (607) 776-4126
Email: eheidrick@lawny.org