

INSTRUCTIONS FOR PREPARING AN ORDER TO SHOW CAUSE

An order to show cause requires the following:

1. The order to show cause (see sample Form A).
2. A supporting affidavit or affirmation (see sample Form B). There are certain statements which **MUST** be included in the affidavit/affirmation. **YOU MUST ADD THESE STATEMENTS TO THE SAMPLE FORMS.**

Your papers will only be submitted to the Judge if they are in proper form. Remember, it is the Judge who makes the decision of whether or not to sign your proposed order to show cause.

IF THE JUDGE SIGNS THE ORDER TO SHOW CAUSE, YOU MUST HAVE A COPY OF IT AND OF THE PAPER ANNEXED TO IT (AS WELL AS ANY OTHER PAPERS SPECIFIED IN THE ORDER) SERVED ON THE DEFENDANTS WITHIN THE TIME LIMIT SET IN THE ORDER.

THE COURT WILL OFTEN SET A VERY SHORT PERIOD OF TIME IN WHICH THE MOVING PARTY MUST SERVE THE DEFENDANTS. AS A PRECAUTION, YOU SHOULD BE PREPARED TO SERVE THE DEFENDANTS WITHIN 24 HOURS. ONCE YOU HAVE DONE THIS, COMPLETE AN AFFIRMATION OF SERVICE AND RETURN THE ORIGINAL SIGNED ORDER TO SHOW CAUSE WITH THE AFFIRMATION OF SERVICE TO THE PRO SE CLERK.

You must appear in court on the date and time stated in the order.

If you have any questions, ask the Pro Se Clerk or call (718) 613-2665.

NOTE:

***If you have a case pending in this court which has been assigned a judge and docket number, please see the attached instructions for information on how to prepare and file the order to show cause. You must include the docket number on all your papers.**

***If you do not have a case pending before this court, you must include a properly-completed complaint at the time you submit the proposed order to show cause. You cannot submit an order to show cause alone if you have not filed a complaint either previously or at the same time as you submit the proposed order to show cause.**

**ALL SUPPORTING AFFIDAVITS/AFFIRMATION MUST COMPLY
WITH THE FOLLOWING RULES**

1. Rule 65(b) of the Federal Rules of Civil Procedure – No temporary restraining order will be granted unless the party states the attempt, if any, made to notify the adversary of the restraining order.

Sample Statement: At approximately 10:30 a.m., Monday, May 24, 1982, I spoke to the defendant on the telephone and advised him that an application would be made by plaintiff of a temporary restraining order and an order directing him to show cause why he should not be preliminarily enjoined.

2. Local Rule 6.1(d) – No *ex parte* order, or order to show cause to bring on a motion, will be granted except upon a clear and specific showing by affidavit of good and sufficient reasons why a procedure other than by notice of motion is necessary, and stating whether a previous application for similar relief has been made.

Sample Statement: Since there are only five days until the October 1982 primary, this motion has been brought by order to show cause and no prior request has been made for the relief requested herein.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
_____X

SAMPLE FORM

against

ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER

_____X

___ CV _____ ()

Upon the affidavit of _____ sworn to the _____ day of _____, 20_____, and upon the copy of complaint hereto annexed, it is ORDERED, that the above named defendant(s) show cause before a motion term of this Court, at room _____, United States Court House, Cadman Plaza East in Kings County and State of New York on _____, 20_____, at _____ o'clock in the _____ noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 FRCP enjoining the defendant(s) during the pendency of this action from

_____; and it is further ORDERED, that sufficient reason having been shown, therefore, pending the hearing of plaintiff's application for a preliminary injunction, pursuant to Rule 65 FRCP the defendant(s) are temporarily restrained and enjoined from

and is further ORDERED, that security in the amount of \$ _____ be posted by the plaintiff(s) and it is further ORDERED, that personal service of a copy of this order and annexed affidavit upon the defendant(s) or his counsel on or before _____ o'clock in the _____ noon, _____, 20 ____ shall be deemed good and sufficient service thereof.

DATED:
Brooklyn, New York

United States District Judge

Form A

SAMPLE FORM OF AN AFFIDAVIT OR AFFIRMATION

IN SUPPORT OF ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
_____X

AFFIDAVIT/AFFIRMATION

against

___ CV _____ ()

_____X
STATE OF NEW YORK
COUNTY OF (county where you are)SS.:

_____ (your name) _____, [being duly sworn] deposes and says [or: makes the following affirmation under the penalties of perjury]:

I _____ (your name) _____, as plaintiff in the above-entitled action, respectfully move this court to order defendants to show cause why they should not be enjoined from/to **[specify what you want the court to order]** until a final disposition on the merits in the above-entitled action.

Unless this order is issued, I will suffer immediate and irreparable injury, loss and damage in that **[specify the injury or damage you will suffer. Explain what defendants have done in the past. Be specific]**. As can be seen from the foregoing, I have no adequate remedy at law.

WHEREFORE, I respectfully request that the Court grant the within relief as well as such other and further relief that may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: [date] _____ [your signature]

(or for an affidavit)

Sworn to before me this _____ day of _____ 20____

Notary Public

Form B