

Filing an Order to Show Cause to vacate a default judgment



COMMUNITY
DEVELOPMENT
PROJECT

Instructions

1. Go to the Clerk's Office at your borough Civil Courthouse. Give your name, or the index number in the upper right-hand corner of the court documents, to the clerk.
2. Request to file an Order to Show Cause (OSC) and the accompanying affidavit. Have in mind what dates you'll be available to return to court.
3. Fill out the forms, including the applicable defenses checked in the next column.
4. The clerk will review the OSC and submit it to the judge for a signature and a return date. You may be asked to return to get the signed Order. You will also receive instructions on how to properly serve it upon the plaintiff. NOTE: It is very important to follow the clerk's instructions *exactly*.
5. Ask the clerk to pull up your file so you can go through it and copy important documents. As this is not a free service, bring PLENTY OF QUARTERS.
6. Also ask the clerk to see if there are any other judgments against you.
7. Serve all the documents as directed by the clerk, and bring the mailing receipts to court on your return date.

General Defenses

- I was not properly served.
- I do not owe this debt.
- I did not incur this debt. I am a victim of identity theft or mistaken identity.
- I have paid all or part of the alleged debt.
- I dispute the amount of the debt.
- I do not have a business relationship w/the plaintiff. (Plaintiff lacks standing).
- The NYC Dept. of Consumer Affairs shows no record of plaintiff having a license to collect debt.
- Plaintiff does not allege a debt collection license number in the complaint.
- Statute of limitations (6 years consumer debt, 2 years cell phone debt).
- This debt has been discharged in bankruptcy.
- The collateral (property) was not sold at a commercially reasonable price.
- Unjust enrichment (the amount demanded is excessive compared w/original debt).
- Violation of the duty of good faith and fair dealing.
- Unconscionability (the contract is unfair).
- Laches (plaintiff has excessively delayed bringing this lawsuit, to my disadvantage).
- Defendant is in the military.
- Other:

Important Documents to Copy

- Affidavit of Service
- Summons & Complaint
- Any supporting documents
 - contract
 - Affidavit of Merit
 - any papers with upcoming court dates

New York Civil Court Locations

Manhattan

111 Centre Street, between White & Franklin streets
New York, NY 10013

Queens

89-17 Sutphin Boulevard at 89th Ave.
Jamaica, New York 11435

Staten Island

927 Castleton Avenue at corner of Bement Ave.
Staten Island, New York 10310

Brooklyn

141 Livingston Street at corner of Smith St.
Brooklyn, NY 11201

The Bronx

851 Grand Concourse
Bronx, NY 10451

[http://www.nycourts.gov/courts/nyc/civil/
interactive.shtml](http://www.nycourts.gov/courts/nyc/civil/interactive.shtml)

CDP - Urban Justice Center

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