

PART 730 ESTABLISHMENT AND JURISDICTION OF APPELLATE TERMS

Section

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Section 730.1. Establishment and jurisdiction of Appellate Terms.

The Appellate Division of the Supreme Court, Second Judicial Department, pursuant to the authority vested in it, does hereby, effective January 2, 1968 and as amended:

(a) (1) Establish an Appellate Term of the Supreme Court in and for the Second, Eleventh and Thirteenth Judicial Districts, which shall be held from time to time at such places in those judicial districts as may be designated by the Chief Administrator of the Courts.

(2) The Chief Administrator of the Courts shall, with the approval of the presiding justice of the Appellate Division, Second Judicial Department, designate the Supreme Court justices assigned to the Appellate Term of the Supreme Court in and for the Second, Eleventh and Thirteenth Judicial Districts.

(b) Direct the Appellate Term of the Supreme Court in and for the Second, Eleventh and Thirteenth Judicial Districts, hereinabove established, shall have jurisdiction to hear and determine all appeals authorized by law to be taken:

(1) from an order or judgment of the Civil Court of the City of New York entered in the counties of Kings, Queens and Richmond, and

(2) from a judgment, sentence or order of the Criminal Court of the City of New York in any of said counties.

(c) (1) Establish an Appellate Term of the Supreme Court in and for the ninth and tenth judicial districts which shall be held from time to time at such places in those judicial districts as may be designated by the Chief Administrator of the Courts.

(2) The Chief Administrator of the Courts shall, with the approval of the Presiding Justice of the Appellate Division, Second Judicial Department, designate the Supreme Court justices assigned to the Appellate Term of the Supreme Court in and for the ninth and tenth judicial districts.

(d) Direct that the Appellate Term of the Supreme Court in and for the ninth and tenth judicial districts, hereinabove established, shall have jurisdiction to hear and determine all appeals now or hereafter authorized by law to be taken to the County Court or to the Appellate Division from any court in any county within the ninth judicial district or the tenth judicial district other than appeals from the Supreme Court, the Surrogate's Court, the Family Court or criminal appeals from the County Court.

(1) Direct that an appeal authorized by CPL 450.10 and 450.20 to be taken to intermediate courts shall be taken to the Appellate Term of the Supreme Court in and for the

ninth and tenth judicial districts, hereinabove established, in accordance with its rules applicable thereto but not inconsistent with the applicable provisions of the CPL, where such appeal is from a judgment, sentence or order of a local criminal court and all classifications thereof (as defined and set forth in CPL 10.10) located in this department but outside New York City.

(2) In addition to, but not in limitation of the foregoing, such Appellate Term shall have jurisdiction to hear and determine all appeals:

(i) from the District Court of Nassau County, the District Court of Suffolk County and any other district court hereafter established in any county within the ninth judicial district; and

(ii) from any town, village or city court within either the ninth judicial district or the tenth judicial district; and

(iii) in civil matters, from any county court within either the ninth judicial district or the tenth judicial district.

(e) The Appellate Term of the Supreme Court in and for the Second, Eleventh, and Thirteenth Judicial Districts and the Appellate Term of the Supreme Court in and for the Ninth and Tenth Judicial Districts shall jointly employ the nonjudicial personnel heretofore appointed to and employed in the predecessor Appellate Term previously discontinued, reserving for further order the disposition to be made of the books, records, papers, documents, furniture, equipment and other property of such predecessor Appellate Term, which in the interim shall be held jointly by, and may be used in the conduct severally of the business of, the aforesaid separate Appellate Terms hereby established.

(f) Direct that all motions addressed to either of the Appellate Terms shall be made returnable and all briefs, stipulations, and correspondence shall be filed in the Office of the Clerk of the Court, 141 Livingston Street, 15th Floor, Brooklyn, New York 11201.

Section 730.2. Civil Appeals Management Program.

(a) The chief clerk of the appellate terms, in appropriate cases, may issue a notice directing the attorneys for the parties and/or the parties themselves to attend a pre-argument conference before a designated justice of other designated person, to consider the possibility of settlement, the limitation of the issues, and any other matters which the designated justice or other person determines may aid in the disposition of the appeal or proceeding.

(b) Any attorney or party who, without good cause shown, fails to appear for a regularly scheduled pre-argument conference, or who fails to comply with the terms of a stipulation or order entered following a pre-argument conference, shall be subject to the imposition of such costs and/or sanctions as the court may direct.

Section 730.3. General provisions and definitions.

(a) Unless the context requires otherwise, as used in this Part and Parts 731 and 732 of this Title:

(1) The word perfection refers to the filing of an appellant's brief after an appeal is on the general calendar.

(2) The term cross appeal refers to an appeal taken by a party whose interests are adverse to a party who has appealed from the same order or judgment.

(b) All briefs, motions, affirmations, and any other papers will be deemed filed only as of the time they are actually received by the clerk and they shall be accompanied by proof of service as required by CPLR 2103.

(c) If a period of time prescribed by this Part and Parts 731 and 732 is measured from the service of a record, brief, or other paper and service is by mail, five days shall be added to the prescribed period. If service is by overnight delivery, one day shall be added to the prescribed period.

(d) Unless the context requires otherwise, if a period of time prescribed by Parts 731 and 732 for the performance of an act ends on a Saturday, Sunday, or public holiday, the act will be deemed timely if performed by 5:00 p.m. of the next business day.

(e) An appellate term docket number will be assigned to every appeal. All papers and correspondence thereafter filed shall prominently display the applicable docket number or numbers in the upper left hand corner of the first page above the title of the case.

(f) If an appeal or the underlying action or proceeding is wholly or partially settled or in any issues are wholly or partially rendered moot, or if the calendaring, restoration, or disposition of the appeal is affected by the bankruptcy or death of a party, the inability of counsel to appear, an order of rehabilitation, or some other circumstance, the parties or their counsel shall immediately notify the court. Any attorney or party who, without good cause shown, fails to comply with the requirements of this subdivision shall be subject to such costs and/or sanctions as the court may direct.

(g) Any attorney or party to a civil appeal who, in the prosecution of defense thereof, engages in frivolous conduct as that term is defined in Subpart 130-1.1 (c) of this Title, shall be subject to the imposition of such costs and/or sanctions as authorized by Subpart 130-1 of this Title, as the court may direct.

PART 731 RULES OF PRACTICE FOR THE SECOND, ELEVENTH AND THIRTEENTH JUDICIAL DISTRICTS

Section

- 731.1 Records on appeal.
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- 731.10 Leave to appeal to the Appellate Term.
- 731.11 Motions to reargue, resettle or amend; motions for leave to appeal to the Appellate Division.

Section 731.1. Records on appeal.

(a) In civil actions or proceedings, the clerk's return, as required to be made and filed pursuant to section 1704, of the Civil Court Act, shall constitute the record on appeal.

(b) (1) In criminal actions or proceedings, the appeal shall be heard on the original papers, certified by the clerk of the court from which the appeal is taken, the court's return when the same is required by statute, a stenographic transcript of the proceedings settled by the judge before whom the action was tried, or in case of the death or disability of such judge, in such manner as this court directs.

(2) For good cause shown, the court may hear the appeal on an abridged record containing so much of the evidence or other proceedings as it may deem necessary to a consideration of the questions raised on the appeal.

(c) Unless otherwise ordered by the court, an appellant may, but need not, print copies of the record on appeal.

Section 731.2. Briefs.

(a) The form, style and content of all briefs shall conform to the provisions of CPLR 5528 and 5529. Briefs may, but need not, be printed and may be reproduced by any authorized method or may be typewritten.

(1) The calendar number of the appeal shall be stated at the upper left-hand corner of the cover page of each brief.

(2) In all causes, civil and criminal, each party's main brief, upon the upper right-hand corner of the cover page, shall specify whether the cause is to be argued or submitted, and shall state the name of counsel who is to argue or submit.

(b) In all causes, unless otherwise directed by statute, the court, or these rules, the appellant's main brief shall include at the beginning the statement required by CPLR 5531.

- (c) In criminal causes, the appellant's main brief at the beginning shall also set forth:
- (1) either the entire judgment or order appealed from, or its material provisions, including its date;
 - (2) the sentence imposed, if any; and
 - (3) a statement whether an order issued pursuant to CPL 460.50 is outstanding and, if so, the date of such order, the name of the judge who issued it and whether the appellant is free on bail or on his own recognizance.

Section 731.3. Court sessions.

Unless otherwise ordered, the court will convene at 9:30 o'clock in the forenoon on the first day of each appointed term. The court may be convened on any subsequent day or days during the term by order of the presiding justice or, in his absence, the associate presiding justice, which order shall specify the three justices who shall constitute the court at any such session.

Section 731.4. Calendar of appeals.

- (a) The general calendar shall consist of:
- (1) all appeals in civil cases in which records on appeal have been filed with the clerk of this court; and
 - (2) all appeals in criminal cases in which a duplicate notice of appeal or an affidavit of errors and the court's return have been transmitted to said clerk as provided in CPL 460.10 (1)(e), 460.10(2) and 460.10(3)(d).
- (b) An appeal on the general calendar in which a record has been filed may be placed on the appeal calendar to be assigned to an appointed term by filing an original and five copies of the appellant's brief as set forth in subdivision (c) of this section.
- (c) The original and five copies of the appellant's brief, with proof of service of one copy, shall be filed with the court, within the time prescribed by section 731.8 of this Part. In addition to the foregoing, in criminal appeals proof of service upon the respondent of one copy of a transcript of the minutes of all proceedings shall be filed together with the appellant's brief, such copy to be returned by the respondent to the appellant upon the argument or submission of the appeal. The original and five copies of the respondent's brief, with proof of service of one copy, shall be filed not more than 21 days after service of the appellant's brief. The original and five copies of a reply brief, with proof of service of one copy, shall be filed not more than seven days after service of respondent's brief.
- (d) A day calendar listing the appeals scheduled for argument or submission on a particular date shall be published in the New York Law Journal not less than 12 days prior to such date. Appellants and respondents, or their attorneys, shall be notified of the calendar date by mail not less than five days prior to such date. Notification by either of such means shall be deemed sufficient.

Section 731.5. Preferences; consolidation.

- (a) Preferences.

(1) Any party to an appeal entitled by law to a preference in the hearing of the appeal may serve and file a demand for preference which shall set forth the provision of law relied upon for such preference and good cause for such preference. If the demand is sustained by the court, the appeal shall be preferred.

(2) A preference under CPLR 5521 may be obtained upon good cause shown by a motion directed to the court on notice to the other parties to the appeal.

(b) Consolidation.

(1) A party may consolidate appeals from civil orders and/or judgments arising out of the same action or proceeding provided that each appeal is perfected timely pursuant to section 731.8 of this Part.

(2) Appeals from orders or judgments in separate actions or proceedings cannot be consolidated but may, upon written request of a party, be scheduled by the court to be heard together on the same day.

Section 731.6. Oral argument or submission.

(a) No more than 15 minutes will be allowed for argument on each side, except by express permission of the court.

(b) In the event that any party's main brief shall fail to set forth the appropriate notations with respect to the argument or submission of the cause, as required by section 731.2(a)(2) this Part, the cause will be deemed to have been submitted without oral argument by the defaulting party.

(c) When any party shall have noted on his or her filed brief, or, before the appeal appears on the day calendar, shall have filed his or her written consent or stipulation or otherwise notified the clerk that he or she intends to submit the appeal without argument, such party need not appear on the calendar call.

(d) The court, in its discretion, may deny oral argument of any appeal.

Section 731.7. Motions.

Motions may be noticed for any day of the term and must be submitted without oral argument. All papers in support of the motion (which must include a copy of the notice of appeal) or in opposition thereto shall be filed before 10 o'clock in the forenoon of the return day of the motion.

Section 731.8 Dismissal on the court's own motion; enlargements of time.

(a) Unless an enlargement of time is granted in accordance with subdivision (d) of this section, an appeal in a civil case which has not been perfected after having been on the general calendar for more than 90 days shall be subject to dismissal.

(b) Except as otherwise provided in CPL 460.70 and subject to the applicable provisions of CPL 470.60, and unless an enlargement of time is granted, in accordance with subdivision (d) of this section, an appeal in a criminal case which has not been perfected within 90 days after the notice of appeal was filed shall be dismissed.

(c) The clerk shall prepare a calendar of the appeals subject to dismissal for failure on the part of the appellant to perfect the same compliance with this rule. Such dismissal calendar shall be published in the New York Law Journal at least five days prior to, as well as on the dismissal day. In criminal cases, the clerk shall cause a notice to be mailed to the appellant and his or her attorney five days prior to the first day of such publication.

(d) Enlargements of time. Except where the court has directed that an appeal be perfected or that a brief be served and filed by a date certain, an enlargement of time to perfect or to serve and file a brief may be obtained as follows:

(1) By stipulation. The parties may stipulate to enlarge the time to perfect an appeal by up to 60 days, to file an answering brief by up to 30 days, and to file a reply brief by up to 10 days. Not more than one such stipulation per perfection or filing shall be permitted. Such a stipulation shall not be effective unless so ordered by the clerk.

(2) For cause. Where a party shall establish a reasonable ground why there cannot or could not be compliance with the time limits prescribed by this section, or such time limits as extended by stipulation pursuant to paragraph (1) of this subdivision, the clerk or a justice may grant reasonable enlargements of time to comply. An application pursuant to this paragraph shall be made by letter, addressed to the clerk, with a copy to the other parties to the appeal. Orders made pursuant to this paragraph shall be reviewable by motion to the court on notice pursuant to section 731.7 of this Part.

Section 731.9. Appeals in criminal cases; adjournments; extensions of time.

(a) Every application for an extension or enlargement of time or for an adjournment in an appeal from a judgment of conviction in a criminal case, whether on motion or stipulation, shall include, in addition to a showing of good cause, a statement subscribed by counsel setting forth:

(1) the sentence imposed and whether the defendant is free on bail or on his own recognizance by reason of the issuance of an order pursuant to CPL 460.50 and, if so, the date of such order and the name of the judge who issued the same; and

(2) whether the court has previously granted any enlargement of time.

(b) Where such application pertains to an appeal on the special day calendar referred to in subdivision (c) of section 731.8, such application shall be filed with the clerk of the court at least two days prior to the day on which the appeal is scheduled to appear on such calendar.

Section 731.10. Leave to appeal to the Appellate Term.

(a) Applications to a justice of the Appellate Term for leave to appeal pursuant to the provisions of CPLR 5701(c) and CCA 1702(c) shall be made on notice within the time prescribed by CPLR 5513(b).

(b) The papers in support of such application must contain a copy of the opinion, if any, and a concise statement of the grounds of alleged error, and shall show whether a similar application was made in the court below.

(c) Applications for certificates or orders granting leave to appeal under the Criminal Procedure Law (CPL 450.15, 460.15) shall be governed by the following special rules:

(1) The application shall be in writing and shall be made and filed with the clerk of this court (with proof of service upon the district attorney or any other prosecutor who appeared for

the People in the criminal court in which the order sought to be reviewed was rendered) within 30 days after service upon the applicant of a copy of the order.

(2) The application shall be addressed to the court for assignment to a justice and shall include:

- (i) the name and address of the applicant and the name and address of the district attorney or other prosecutor, as the case may be;
- (ii) the docket or index number;
- (iii) the questions of law or fact which it is claimed ought to be reviewed;
- (iv) any other information, data, or matter which the applicant may deem pertinent in support of the application; and
- (v) a statement that no prior application of such certificate has been made.

(3) In addition, the papers in support of the application shall include a copy of the order sought to be reviewed and a copy of the memorandum or opinion of the court below or a statement that there was none.

(4) Within 15 days after service upon him of a copy of the application and of the papers, if any, in support thereof, the district attorney or other prosecutor (as the case may be) shall file answering papers or a statement that there is no opposition to the application (with proof of service upon the applicant, if appearing pro se, or upon the attorney making the application on behalf of the applicant). Such answering papers shall include a discussion of the merits of the application or shall state, if such be the case, that the application does not contain any allegations other than those alleged in the papers submitted by the applicant on the court below and that the prosecutor relies on the record, his answering papers contained therein and the memorandum or opinion of such court, if there be any.

(5) Unless the justice designated to determine the application shall in his discretion otherwise direct, the matter shall be submitted and determined upon the foregoing papers and without oral argument.

Section 731.11. Motions to reargue, resettle or amend; motions for leave to appeal to the Appellate Division.

(a) Motions to reargue a cause or to resettle an order or to amend a decision shall be made within 30 days after the cause shall have been decided, except that for good cause shown, the court may consider any such motion when made at a latter date.

(b) In an appeal in a civil case, a motion for leave to appeal to the Appellate Division from an adverse determination of the Appellate Term shall be made in the manner and within the time prescribed by CPLR 5513(b) and 5516.

(c) The papers in support of such motion shall concisely state the points claimed to have been overlooked or misapprehended by the court, with appropriate references to the particular portions of the record or briefs and with citation of the authorities relied upon.

(d) A motion for leave to appeal to the Appellate Division in a civil case from an order granting or affirming the granting of a new trial or hearing shall contain a stipulation that if the order appealed from be affirmed, judgment absolute may be entered against the moving party.

PART 732 RULES OF PRACTICE FOR THE NINTH AND TENTH JUDICIAL DISTRICTS

Section

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- 732.9 Appeals in criminal cases; adjournments; extensions of time.
- 732.10 Leave to appeal to the Appellate Term.
- 732.11 Motions to reargue, resettle or amend; motions for leave to appeal to the Appellate Division.
- 732.12 Stay of judgment pending appeal to the Appellate Term.

Section 732.1. Records on appeal.

(a) In civil actions or proceedings, the return required to be filed by the clerk shall constitute the record on appeal except in civil appeals from the County Court, which shall conform to the requirements of CPLR 5525, et seq.

(b) (1) In criminal actions or proceedings, the appeal shall be heard on the original papers, certified by the clerk of the court from which the appeal is taken, the court's return when the same is required by statute, a stenographic transcript of the proceedings settled by the judge or justice before whom the action was tried, or in case of the death or disability of such judge or justice, in such manner as this court directs.

(2) For good cause shown, the court may hear the appeal on an abridged record containing so much of the evidence or other proceedings as it may deem necessary to a consideration of the questions raised on the appeal.

(c) Unless otherwise ordered by the court, an appellant may, but need not, print copies of the record on appeal.

Section 732.2. Briefs.

(a) The form, style and content of all briefs shall conform to the provisions of CPLR 5528 and 5529. Briefs may, but need not, be printed and may be reproduced by any authorized method or may be typewritten.

(1) The calendar number of the appeal shall be stated at the upper left-hand corner of the cover page of each brief.

(2) In all cases, civil and criminal, each party's main brief upon the right-hand corner of the cover page, shall specify whether the cause is to be argued or submitted, and shall state the name of counsel who is to argue or submit.

(b) In all causes, unless otherwise directed by statute, the court, or these rules, the appellant's

main brief shall include at the beginning, the statement required by CPLR 5531.

(c) In criminal cases, the appellant's main brief at the beginning shall also set forth:

(1) either the entire judgment or order appealed from, or its material provisions, including its date;

(2) the sentence imposed, if any, and

(3) a statement whether an order issued pursuant to CPL 460.50 is outstanding and, if so, the date of such order, the name of the judge who issued it and whether the appellant is free on bail or on his own recognizance.

Section 732.3. Court sessions.

Unless otherwise ordered, the court will convene at 10 o'clock in the forenoon on the first day of each appointed term. The court may be convened on any subsequent day or days during the term by order of the presiding justice or, in his absence, the associate justice, which order shall specify the three justices who shall constitute the court at any such session.

Section 732.4. Calendar of appeals.

(a) The general calendar shall consist of:

(1) all appeals in civil cases in which records on appeal have been filed with the clerk of this court; and

(2) all appeals in criminal cases in which a duplicate notice of appeal or an affidavit of errors and the court's return have been transmitted to said clerk as provided in CPL 460.10 (1)(e), 460.10(2) and 460.10(3)(d).

(b) An appeal on the general calendar in which a record has been filed may be placed on the appeal calendar to be assigned to an appointed term by filing an original and five copies of the appellant's brief as set forth in subdivision (c) of this section.

(c) The original and five copies of the appellant's brief, with proof of service of one copy, shall be filed with the court, within the time prescribed by section 732.8 of this Part. In addition to the foregoing, in criminal appeals proof of service upon the respondent of one copy of a transcript of the minutes of all proceedings shall be filed together with the appellant's brief, such copy to be returned by the respondent to the appellant upon the argument or submission of the appeal. The original and five copies of the respondent's brief, with proof of service of one copy, shall be filed not more than 21 days after service of the appellant's brief. The original and five copies of a reply brief, with proof of service of one copy, shall be filed not more than seven days after service of respondent's brief.

(d) A day calendar listing the appeals scheduled for argument or submission on a particular date shall be published in the New York Law Journal not less than twelve days prior to such date. Appellants and respondents, or their attorneys, shall be notified of the calendar date by mail not less than five days prior to such date. Notification by either of such means shall be deemed sufficient.

Section 732.5. Preferences; consolidation.

(a) Preferences.

(1) Any party to an appeal entitled by law to a preference in the hearing of the appeal may serve and file a demand for preference which shall set forth the provision of law relied upon for such preference and good cause for such preference. If the demand is sustained by the court, the appeal shall be preferred.

(2) A preference under CPLR 5521 may be obtained upon good cause shown by a motion directed to the court on notice to the other parties to the appeal.

(b) Consolidation.

(1) A party may consolidate appeals from civil orders and/or judgments arising out of the same action or proceeding provided that each appeal is perfected timely pursuant to section 732.8 of this Part.

(2) Appeals from orders or judgments in separate actions or proceedings cannot be consolidated but may, upon written request of a party, be scheduled by the court to be heard together on the same day.

Section 731.6. Oral argument or submission.

(a) No more than 15 minutes will be allowed for argument on each side, except by express permission of the court.

(b) In the event that any party's main brief shall fail to set forth the appropriate notations with respect to the argument or submission of the cause, as required by section 732.2(a)(2) of these rules, the cause will be deemed to have been submitted without oral argument by the defaulting party.

(c) When any party shall have noted on his or her filed brief, or, before the appeal appears on the day calendar, shall have filed his or her written consent or stipulation or otherwise notified the clerk that he or she intends to submit the appeal without argument, such party need not appear on the calendar call.

(d) The court, in its discretion, may deny oral argument of any appeal.

Section 732.7. Motions.

Motions may be noticed for any day of the term and must be submitted without oral argument. All papers in support of the motion (which must include a copy of the notice of appeal) or in opposition thereto shall be filed before 10 o'clock in the forenoon of the return day of the motion.

Section 731.8. Dismissal on the court's own motion; enlargements of time.

(a) Unless an enlargement of time is granted in accordance with subdivision (d) of this section, an appeal in a civil case which has not been perfected after having been on the general calendar for more than 90 days shall be subject to dismissal.

(b) Except as otherwise provided in CPL 460.70 and subject to the applicable provisions of CPL 470.60, and unless an enlargement of time is granted, in accordance with subdivision (d) of this section, an appeal in a criminal case which has not been perfected within 90 days after the notice of appeal was filed shall be dismissed.

(c) The clerk shall prepare a calendar of the appeals subject to dismissal for failure on the part of the appellant to perfect the same compliance with this rule. Such dismissal calendar shall be published in the New York Law Journal at least five days prior to, as well as on the dismissal day. In criminal cases, the clerk shall cause a notice to be mailed to the appellant and his or her attorney five days prior to the first day of such publication.

(d) Enlargements of time. Except where the court has directed that an appeal be perfected or that a brief be served and filed by a date certain, an enlargement of time to perfect or to serve and file a brief may be obtained as follows:

(1) By stipulation. The parties may stipulate to enlarge the time to perfect an appeal by up to 60 days, to file an answering brief by up to 30 days, and to file a reply brief by up to 10 days. Not more than one such stipulation per perfection or filing shall be permitted. Such a stipulation shall not be effective unless so ordered by the clerk.

(2) For cause. Where a party shall establish a reasonable ground why there cannot or could not be compliance with the time limits prescribed by this section, or such time limits as extended by stipulation pursuant to paragraph (1) of this subdivision, the clerk or a justice may grant reasonable enlargements of time to comply. An application pursuant to this paragraph shall be made by letter, addressed to the clerk, with a copy to the other parties to the appeal. Orders made pursuant to this paragraph shall be reviewable by motion to the court on notice pursuant to section 732.7 of this Part.

Section 732.9. Appeals in criminal cases; adjournments; extensions of time.

(a) Every application for an extension or enlargement of time or for an adjournment in an appeal from a judgment of conviction in a criminal case, whether on motion or stipulation, shall include, in addition to a showing of good cause, a statement subscribed by counsel setting forth:

(1) the sentence imposed and whether the defendant is free on bail or on his own recognizance by reason of the issuance of an order pursuant to CPL 460.50 and, if so, the date of such order and the name of the judge who issued the same; and

(2) whether the court has previously granted any enlargement of time.

(b) Where such application pertains to an appeal on the special day calendar referred to in section 732.8(c), such application shall be filed with the clerk of the court at least two days prior to the day on which the appeal is scheduled to appear on such calendar.

Section 732.10. Leave to appeal to the Appellate Term.

(a) Applications to a justice of the Appellate Term for leave to appeal pursuant to the provisions of CPLR 5701(c) and 1702(c) of the appropriate court acts, i.e., the UDCA, UCCA and UJCA shall be on notice within the time prescribed by CPLR 5513(b).

(b) The papers in support of such application must contain a copy of the opinion, if any, and a concise statement of the grounds of alleged error, and shall show whether a similar application was made in the court below.

(c) Applications for certificates or orders granting leave to appeal under the Criminal Procedure Law (CPL 450.15, 460.15) shall be governed by the following special rules:

(1) The application shall be in writing and shall be made and filed with the clerk of this court (with proof of service upon the district attorney or any other prosecutor who appeared for the People in the criminal court in which the order sought to be reviewed was rendered) within 30 days after service upon the applicant of a copy of the order.

(2) The application shall be addressed to the court for assignment to a justice and shall include:

(i) the name and address of the applicant and the name and address of the district attorney or other prosecutor, as the case may be;

(ii) the docket or index number;

(iii) the questions of law or fact which it is claimed ought to be reviewed;

(iv) any other information, data, or matter which the applicant may deem pertinent in support of the application; and

(v) a statement that no prior application of such certificate has been made.

(3) In addition, the papers in support of the application shall include a copy of the order sought to be reviewed and a copy of the memorandum or opinion of the court below or a statement that there was none.

(4) Within 15 days after service upon him of a copy of the application and of the papers, if any, in support thereof, the district attorney or other prosecutor (as the case may be) shall file answering papers or a statement that there is no opposition to the application (with proof of service upon the applicant, if appearing pro se, or upon the attorney making the application on behalf of the applicant). Such answering papers shall include a discussion of the merits of the application or shall state, if such be the case, that the application does not contain any allegations other than those alleged in the papers submitted by the applicant in the court below and that the prosecutor relies on the record, his answering papers contained therein and the memorandum or opinion of such court, if there be any.

(5) Unless the justice designated to determine the application shall in his discretion otherwise direct, the matter shall be submitted and determined upon the foregoing papers and without oral argument.

Section 732.11. Motions to reargue, resettle or amend; motions for leave to appeal to the Appellate Division.

(a) Motions to reargue a cause or to resettle an order or to amend a decision shall be made within 30 days after the cause shall have been decided, except that for good cause shown, the court may consider any such motion when made at a latter date.

(b) In an appeal in a civil case, a motion for leave to appeal to the Appellate Division from an adverse determination of the Appellate Term shall be made in the manner and within the time prescribed by CPLR 5513(b) and 5516.

(c) The papers in support of such motion shall concisely state the points claimed to have been overlooked or misapprehended by the court, with appropriate references to the particular portions

of the record or briefs and with citation of the authorities relied upon.

(d) A motion for leave to appeal to the Appellate Division in a civil case from an order granting or affirming the granting of a new trial or hearing shall contain a stipulation that if the order appealed from be affirmed, judgment absolute may be entered against the moving party.

Section 732.12. Stay of judgment pending appeal to the Appellate Term.

Upon application of a defendant, pursuant to section 460.50 of the Criminal Procedure Law, for an order stating or suspending the execution of the judgment pending the determination of an appeal taken to the Appellate Term, such order may be issued by a justice of the Appellate Term or a justice of the Supreme Court of the judicial district embracing the county in which the judgment was entered.