

Supreme Court of the State of New York
Appellate Term: **Second Judicial Department**

Rules of Procedure



Appellate Term

2nd Dept.

2nd JD
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9th JD
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**Parts 730, 731 and 732
PROCEDURE
IN THE
APPELLATE TERM—
SECOND JUDICIAL DEPARTMENT**

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Part 730 Establishment and Jurisdiction of Appellate Terms**§ 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 and eleventh judicial districts, which shall be held from time to time in courtroom 1902 at 111 Livingston Street, in the County of Kings, and at the Courthouse located at 88-11 Sutphin Boulevard in the County of Queens and at such other places 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 and eleventh judicial districts.*
- (b) Direct that the Appellate Term of the Supreme Court in and for the second and eleventh 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 within said department which shall be held from time to time at the courthouse located at Supreme Court Drive, in the County of Nassau, and at the courthouse located at 111 Grove Street, in the County of Westchester, and at such other places 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

* Such designations shall be set forth in the orders issued from time to time.

** Such designations shall be set forth in the orders issued from time to time.

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 and eleventh 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 in the Office of the Clerk of the Court, 111 Livingston Street, Brooklyn, New York 11201. (Add, eff March 1, 1988; former section rpld. wff March 1, 1988.)

Part 731 Rules of Practice for the Second and Eleventh Judicial Districts

§ 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 cases, 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 the court by filing a note of issue containing the following information:
 - (1) the title of the appeal;
 - (2) the judgment or order appealed from, the date thereof and the court from which the appeal was taken;
 - (3) the attorneys for the respective parties, their addresses and telephone numbers, and the name, if known, of counsel who will argue the cause;
 - (4) the identity of the party filing the note of issue.
- (c) The note of issue, with proof of service, together with the original and three copies of appellant's brief, with proof of service of one copy, shall be filed with the court, together with blank, stamped post cards, addressed to each and every appellant and respondent on or before the first Friday of any given month; in criminal causes proof of service upon respondent of one copy of a transcript of the minutes of all proceedings shall be filed together with the note of issue, such copy to be returned by respondent to the appellant upon the argument or submission of the appeal. The original and three copies of respondent's brief, with proof of service of one copy, shall be filed on or before the third Friday of the month in which the note of issue is deemed filed. The original and three copies

of a reply brief, with proof of service of one copy, shall be filed not later than the fourth Friday of the month in which the note of issue is deemed filed.

- (d) Notification of the appointed term to which an appeal has been assigned shall be published in the New York Law Journal not less than twelve days prior to the date of said term. Appellants and respondents or their attorneys shall be notified by postal card not less than five days prior to the date of said term. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 731.5. Preferences

Any party to an appeal, for good cause shown, may move for a preference upon notice to all other parties to the appeal. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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) of 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 filed brief, or, before the cause appears on the Day Calendar, shall have filed his written consent or stipulation or otherwise notified the clerk that he intends to submit the cause without argument, such party need not appear on the calendar call.

Any provisions of the Rules requiring the filing of any papers as herein prescribed, shall mean the filing thereof, in the Clerk's Office of the Appellate Term, with proof of service in accordance with 2103 CPLR.

In criminal causes, proof of service of one copy of a transcript of all proceedings shall be filed together with the Note of Issue, such copy to be returned to the appellant upon the argument or submission of the appeal. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 731.8. Dismissals on the court's own motion

- (a) Unless an extension or enlargement of time is directed by the court for good cause shown, an appeal in a civil case which has not been noticed for argument after having been on the general calendar for more than ninety days shall be dismissed.
- (b) Except as otherwise provided in CPL 460.70 and subject to the applicable provisions of CPL 470.60, and unless for good cause shown an extension or enlargement of time is granted by the court, an appeal in a criminal case in which a note of issue was not filed within 90 days after the last day in which a notice of appeal was required to be filed shall be dismissed.
- (c) The clerk shall prepare a special day calendar for each appointed term of the appeals subject to dismissal for failure on the part of the appellant to comply with this rule. Each such special day calendar shall be published in the New York Law Journal at least five days prior to, as well as on the day when that calendar is to be called, and in criminal cases, the clerk shall cause a postal card notice to be mailed to appellant or his attorney five days prior to the first day of such publication. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 Civil Court Act, section 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 for 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 later 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.

(Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

Part 732 Rules of Practice for the Ninth and Tenth Judicial Districts**§ 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.

§ 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 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 presiding justice, which order shall specify the three justices who shall constitute the court at any such session. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 the court by filing a note of issue containing the following information:
- (1) the title of the appeal;
 - (2) the judgment or order appealed from, the date thereof and the court from which the appeal was taken;
 - (3) the attorneys for the respective parties, their addresses and telephone numbers, and the name, if known, of counsel who will argue the cause;
 - (4) the identity of the party filing the note of issue.
- (c) The note of issue, with proof of service, together with the original and three copies of appellant's brief, with proof of service of one copy, shall be filed with the court, together with blank, stamped post cards, addressed to each and every appellant and respondent on or before the first Friday of any given month; in criminal causes proof of service upon respondent of one copy of a transcript of the minutes of all proceedings shall be filed together with the note of issue, such copy to be returned by respondent to the appellant upon the argument or submission of the appeal. The original and three copies of respondent's brief, with proof of service of one copy, shall be filed on or before the third Friday of the month in which the note of issue is deemed filed. The original and three copies of a reply brief, with proof of service of one copy, shall be filed not later than the fourth Friday of the month in which the note of issue is deemed filed.

- (d) Notification of the appointed term to which an appeal has been assigned shall be published in the New York Law Journal not less than twelve days prior to the date of said term. Appellants and respondents, or their attorneys, shall be notified by postal card not less than five days prior to the date of said term. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 732.5. Preferences

Any party to an appeal, for good cause shown, may move for a preference upon notice to all other parties to the appeal. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 732.6. 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 filed brief, or, before the cause appears on the Day Calendar, shall have filed his written consent or stipulation or otherwise notified the clerk that he intends to submit the cause without argument, such party need not appear on the calendar call. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 732.8. Dismissals on the court's own motion

- (a) Unless an extension or enlargement of time is directed by the court for good cause shown, an appeal in a civil case which has not been noticed for argument after having been on the general calendar for more than ninety days shall be dismissed.
- (b) Except as otherwise provided in CPL 460.70 and subject to the applicable provisions of CPL 470.60, and unless for good cause shown an extension or enlargement of time is granted by the court, an appeal in a criminal case in

which a note of issue was not filed within 90 days after the last day in which a notice of appeal was required to be filed shall be dismissed.

- (c) The clerk shall prepare a special day calendar for each appointed term of the appeals subject to dismissal for failure on the part of the appellant to comply with this rule. Each such special day calendar shall be published in the New York Law Journal at least five days prior to, as well as on the day when that calendar is to be called, and in criminal cases, the clerk shall cause a postal card notice to be mailed to appellant or his attorney five days prior to the first day of such publication. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 subdivision (c) of section 732.8, 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 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 for 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 later 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)

§ 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 staying 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. (Add, eff March 1, 1988; former section rpld. eff March 1, 1988.)