

# Filing an Order to Show Cause to vacate a default judgment

## 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.

\*If your case is more than 3 years old, it will be in archives. The wait for archived files is long, often 6-8 weeks. The court will send you notice when it is available. You will have 30 days to review the file before it returns to archives.

## Important Documents to Copy

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

Updated 3/16

Reasonable Excuse: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## 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: \_\_\_\_\_  
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## **New York Civil Court Locations\***

### **Manhattan**

111 Centre Street, between White & Franklin streets  
New York, NY 10013  
(646) 386-5700 9:00am-3:45pm

### **Queens**

89-17 Sutphin Boulevard at 89th Ave.  
Jamaica, New York 11435  
(718) 262-7100 9:00am-3:45pm

### **Staten Island**

927 Castleton Avenue at corner of Bement Ave.  
Staten Island, New York 10310  
(646) 386-5700 9:00am-3:45pm

### **Brooklyn**

141 Livingston Street at corner of Smith St.  
Brooklyn, NY 11201  
(347) 404-9123 9:00am-3:45pm

### **The Bronx**

851 Grand Concourse  
Bronx, NY 10451  
(718) 618-2561 9:00am-3:45pm

\*Hours of operation are subject to change. Please plan ahead by calling the court at the numbers listed above to give yourself plenty of time.

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<p><b>CDP-Urban Justice Center</b> 123 William St. 16th floor New York, NY 10038 Tel: 646-602-5200</p>
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