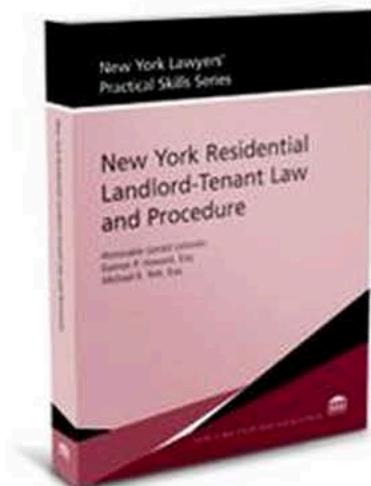


NY RESIDENTIAL LANDLORD-TENANT LAW-2014-2015 (PS)



NY RESIDENTIAL LANDLORD-TENANT LAW-2014-2015
(PS)

Additional Information:

Authors

Hon. Gerald Lebovits

New York City Criminal Court, Manhattan

Damon P. Howard, Esq.

Ephron-Mandel & Howard, L.L.P., New York City

Peter G. Diskint, Esq.

NYS Supreme Court, Appellate Term

Key Benefits

- Understand the statutory framework for landlord-tenant summary proceedings
- Enhance your skills dealing with landlord-tenant disputes

Product Description

New York residential landlord-tenant law is daunting to newcomers and the experienced alike, given its patchwork statutory framework, discordant case law, and emotion-laden disputes involving homes, money, and the charged landlord-tenant relationship. This practice guide introduces the fundamentals of residential landlord-tenant law and offers a guide to the procedural mechanics practitioners face in landlord-tenant disputes.

The 2014-2015 release is a complete reprint and is current through the 2014 New York State legislative session.

This edition expands on the previous version with coverage of new case law and recent statutory developments. It also introduces the substantive fundamentals of residential landlord-tenant law and offers a guide to the procedural mechanics practitioners face in landlord-tenant disputes. It offers practical advice on tenancy, summary proceedings, nonpayment proceedings, illegal lockout/unlawful eviction actions and proceedings, general and affirmative defenses to a residential landlord-tenant proceeding, and includes many forms.



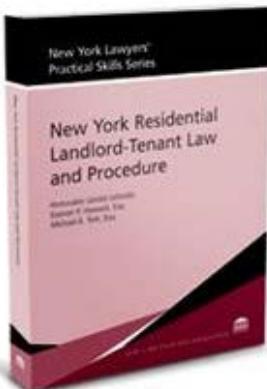
NYSBA ONLINE MARKETPLACE

Home > NYSBA Online Marketplace

[Purchase online now](#)

PRODUCT DETAILS

NY RESIDENTIAL LANDLORD-TENANT LAW-2014-2015 (PS)



NY RESIDENTIAL LANDLORD-TENANT LAW-2014-2015 (PS)

Additional Information:

Authors

Hon. Gerald Lebovits

New York City Criminal Court, Manhattan

Damon P. Howard, Esq.

Ephron-Mandel & Howard, L.L.P., New York City

Peter G. Diskint, Esq.

NYS Supreme Court, Appellate Term

Key Benefits

- Understand the statutory framework for landlord-tenant summary proceedings
- Enhance your skills dealing with landlord-tenant disputes

Product Description

New York residential landlord-tenant law is daunting to newcomers and the experienced alike, given its patchwork statutory framework, discordant case law, and emotion-laden disputes involving homes, money, and the charged landlord-tenant relationship. This practice guide introduces the fundamentals of residential landlord-tenant law and offers a guide to the procedural mechanics practitioners face in landlord-tenant disputes.

The 2014-2015 release is a complete reprint and is current through the 2014 New York State legislative session.

This edition expands on the previous version with coverage of new case law and recent statutory developments. It also introduces the substantive fundamentals of residential landlord-tenant law and offers a guide to the procedural mechanics practitioners face in landlord-tenant disputes. It offers practical advice on tenancy, summary proceedings, nonpayment proceedings, illegal lockout/unlawful eviction actions and proceedings, general and affirmative defenses to a residential landlord-tenant proceeding, and includes many forms.

Table of Contents and Author Bios

Product Code: 416914

Publisher: NYSBA

Media: Book

Edition: 2014-2015

Pages: 494

Member Price: \$80.00

Non-Member Price: \$95.00

DUES

1. Renew your Membership
2. Join the Association
3. Join a Section
4. Donate to the Bar Foundation

SEARCH FOR:

Calendar of Events
CLE Search

SEARCH PRODUCTS BY CATEGORY

1. CLE Audio Online
2. CLE Video Online
3. CLE on CD
4. CLE on DVD
5. Coursebooks
6. Books
7. MCLE Coursebooks
8. Forms
9. Pamphlets

New York Lawyers' Practical Skills Series

Residential Landlord-Tenant Law and Procedure

Honorable Gerald Lebovits*

Damon P. Howard, Esq.

Peter G. Diskint, Esq.

2014–2015

* The authors of this seventh edition thank Michael B. Terk, Esq., for his co-authorship of the fifth (2012–2013) and fourth (2011–2012) editions; Victor S. Faleck, Esq., for his co-authorship of the third (2010–2011) and second (2009–2010) editions; and Dan M. Blumenthal, Esq., for his co-authorship of the first (2008–2009) edition. For their research on the sixth edition, the authors thank Peter Kane, Esq., and Nancy Hassell of the Appellate Term, First Department, and law students Ian Steinberg (Cardozo) and James Steiner (New York Law School). For their research on the fourth edition, the authors thank Judge Lebovits's judicial interns Daphne Bareket (Florida International), Alison Genova (Fordham), and Hailey B. Render (Syracuse). For their research on the third edition, the authors thank then-New York Law School students Deena M. Crimaldi and Alana Sliwinski. For their research on the second edition, the authors thank Judge Lebovits's judicial interns P. Alex de Richemont (Harvard), Mariella Soussou (Fordham), and Mary Jane Yoon (Columbia). For their research on the first edition, the authors thank Mary Ann Amodeo, Esq., Judge Lebovits's court attorney Alexandra Standish, Esq., and Judge Lebovits's judicial interns Alana Wrublin (Fordham), Victor J. Brubaker (New York Law School), and Stephanie L. Torre (New York Law School). For writing the section on the Buffalo Housing Court and for providing the Buffalo Housing Court forms, the authors thank former Buffalo City Court judge, and now Supreme Court justice, Henry Nowak and now-retired court attorney/referee Mark Doane, Esq. For writing the section on the Justice Courts, the authors also thank Town of Bethlehem Justice Ryan Donovan and Katelyn Primono, Esq.

New York State Bar Association Continuing Legal Education publications are intended to provide current and accurate information to help attorneys maintain their professional competence. Publications are distributed with the understanding that NYSBA does not render any legal, accounting or other professional service. Attorneys using publications or orally conveyed information in dealing with a specific client's or their own legal matters should also research original sources of authority.

We consider the publication of any NYSBA practice book as the beginning of a dialogue with our readers. Periodic updates to this book will give us the opportunity to incorporate your suggestions regarding additions or corrections. Please send your comments to: CLE Publications Director, New York State Bar Association, One Elk Street, Albany, NY 12207.

Copyright 2014
New York State Bar Association
All rights reserved
ISBN: 1-57969-426-8
Product Number: 416914

CONTENTS

I.	Introduction	1
II.	The Tenancy	2
	A. Market Rentals.....	7
	1. The Parties	9
	2. The Premises.....	12
	3. Rent.....	13
	4. Default	13
	5. Legal Fees Provisions	15
	6. Recording of Leases	19
	B. Rent Regulation	19
	1. Rent-Controlled Premises.....	20
	2. Rent-Stabilized Premises	23
	a. Rent Stabilization Overview.....	23
	b. Tenants' Rights Under Rent Stabilization	25
	c. Exemptions From Rent Stabilization	27
	3. Rent-Overcharge Claims	30
	4. Succession Rights	33
	5. Preferential Rents	35
	C. Public Housing	37
	D. Section 8 (Tenant and Project-Based) Housing.....	38
	1. The Voucher Program	38
	2. Project-Based Section 8.....	43
	E. Cooperatives and Condominiums.....	43
	1. Cooperatives Generally	43
	2. Cooperative and Condominium Conversions.....	45
	3. Condominiums.....	47
	4. Cooperative and Condominium Summary Proceedings in New York City ...	47
	5. Subsidized/Regulated Cooperatives Under the Private Housing Finance Law	47
	a. Housing Development Fund Companies	47
	b. Limited-Profit Housing Companies (Mitchell-Lama Housing)	48
	F. Lofts.....	49
	G. Hotels and Single-Room Occupancy Buildings (SROs)	51
III.	Tenancy Protections	53
	A. Housing Discrimination.....	53
	B. Warranty of Habitability.....	55
IV.	Conveying the Tenancy.....	58
V.	Summary Proceedings	61
	A. Introduction to Summary Proceedings	61
	1. Overview	61
	2. The Basic Structure of Modern Summary Proceedings	63
	a. Pleadings.....	63
	b. Governing Procedural Statutes	64
	c. Counterclaims and Jury Waivers	65

d. Attorney Fees and Costs	65
e. Types of Summary Proceedings	65
B. Holdover Proceedings	66
1. Holdover Proceedings Against Tenants.....	67
2. Grounds for Holdover Proceeding Against Tenants—Breach of a Substantial Obligation of the Tenancy	68
a. Unauthorized Sublets.....	69
b. Pets.....	72
c. Alterations	74
d. Security Deposit	75
e. Specified Use or Purpose.....	75
3. Grounds for Holdover Proceedings Against Tenants—Wrongful Acts of Tenants and Nuisance	76
a. Nuisance	76
b. Hoarding	78
c. Chronic Late Payment of Rent	78
d. Access.....	79
e. Destruction of the Premises	80
f. Illegal Occupancy	80
g. Illegal Use.....	81
4. Grounds for Holdover Proceedings Against Tenants—Separate Grounds to Recover Rent-Regulated Units	84
a. Non-primary Residence	84
b. Owner's Use	87
c. Recovery for Use by Nonprofit Institution.....	90
d. Demolition	91
e. Withdrawal From the Rental Market.....	92
f. Eviction Plan.....	92
g. Failure to Renew	92
h. Profiteering	93
5. Grounds for Holdover Proceedings Against Nontenants.....	93
a. Proceedings by Purchasers in Foreclosure	93
b. Licensee Proceedings.....	94
c. Squatters	96
d. Occupant Remaining in Possession After Sale of the Premises	96
e. Vendee in Possession After Default Under Contract of Sale	97
f. Occupant Under Cultivation Agreement	97
g. Employer-Employee Proceedings	97
h. Occupant After Termination of Life Estate	98
i. Occupant by Forceable or Unlawful Entry	98
6. Predicate Notices	99
a. Overview.....	99
b. Notice to Cure.....	99
c. Notice of Termination.....	100
d. Timeliness of Notices Served by Mail.....	108

7. Notice of Petition and Petition.....	108
a. Notice of Petition/Service/Necessary Parties	108
(1) Issuance of the Notice of Petition	108
(2) Timing for Service of the Notice of Petition and Petition.....	108
b. Contents of the Petition	111
(1) General Requirements	111
(2) Description of the Premises Sought to Be Recovered.....	112
(3) Statement of the Parties' Interests in the Premises Sought to Be Recovered.....	113
(4) Regulatory Status of the Premises and Compliance With the Applicable Rent Regulation Laws.....	114
(5) Verification of the Petition.....	115
(6) Liberalization of Pleading Requirements	115
(7) Alternative Pleadings	115
(8) Inquests.....	117
C. Nonpayment Proceedings	117
1. Proper Parties.....	118
2. Elements of a Nonpayment Proceeding.....	118
3. What May Be Recovered as Rent in a Nonpayment Proceeding	118
4. Rent Demands.....	120
a. Overview	120
b. Contents of the Rent Demand.....	121
c. Modifying Notice Requirements by Agreement Between the Parties.....	123
d. Oral vs. Written Rent Demands.....	123
e. Compliance With the Fair Debt Collection Practices Act	124
5. Notice of Petition and Petition.....	125
6. Defaults.....	126
7. Spiegel Law	127
8. Bankruptcy.....	128
D. Answering a Summary Proceeding	128
E. Recovery of Use and Occupancy in Summary Proceedings	132
F. Disclosure in Summary Proceedings.....	135
G. Rent Deposits/ <i>Pendente Lite</i> Use and Occupancy	137
H. Stays, Warrant, Cures	138
1. Stays of Warrants/Execution/Eviction in Nonpayment Proceedings	138
2. Stays of Warrants/Execution/Eviction in Holdover Proceedings	140
a. Ten-Day Stay of Warrant of Eviction in Breach of Lease Holdover Proceedings.....	140
b. Extension of the Post-Judgment Cure to Holdover Proceedings Based on Grounds Other Than Breach of Lease	142
(1) Non-Renewal of a Rent Stabilized Lease.....	142
(2) Failure to Give Access	142
(3) Nuisance	142
(4) Unavailability of a Post-Judgment Cure in Certain Types of Holdover Proceedings	143
(5) Public Policy Against Forfeiture of Tenancies in New York.....	143

(6) Non-Residential Tenants and Tenants Outside the City of New York	143
(7) Prevailing Landlords' Entitlement to Attorney Fees.....	144
3. General Powers to Stay Warrants in Summary Proceedings.....	144
4. Stay of the Proceeding Itself Before or After Judgment.....	144
I. Service of Process in Summary Proceedings	146
1. Overview of "Traverse" in Summary Proceedings	146
2. Service Requirements	146
3. Challenging Service.....	150
4. Process Server Rules and Regulations in the City of New York.....	151
a. Overview of Rules	151
b. Licensing Requirements/Process Servers and Process Server Agencies..	151
c. Mandatory Posting of Bonds	152
d. Record-Keeping Requirements.....	152
e. GPS Technology	153
f. Judicial Actions and Proceedings/Claims for Improper Service/Traverse Hearings.....	153
g. Exemptions	153
J. General and Affirmative Defenses to Summary Proceedings.....	153
1. Overview.....	153
2. Traverse/Service	154
3. Lack of Multiple Dwelling Registration in New York City	154
4. Lack of a Proper Certificate of Occupancy	155
5. Failure Accurately to State Regulatory Status and Comply With Rent Laws.....	156
6. Omitting or Misstating Required Elements of the Petition	157
7. Lack of Proper Predicate Notice/Rent Demand Notice	157
8. Predicate Notice Vitiates/Tenancy Reinstated	157
9. Retaliatory Eviction	157
10. A Laches Defense in a Nonpayment Proceeding	158
11. Conditions.....	159
12. Actual Eviction/Constructive Eviction.....	160
13. Statute of Limitations	160
14. Succession Rights	161
K. Alleging a Respondent's Military Status.....	162
L. Competency of Parties to a Landlord-Tenant Proceeding, Including the Unrepresented, Non-English Speakers, and Those Needing Guardians <i>Ad Litem</i>	163
M. Settlements in Landlord-Tenant Summary Proceedings	165
N. Enforcing Warrants of Eviction and Orders of Possession	170
O. Post-Eviction Relief.....	171
VI. Landlord-Tenant Actions and Proceedings Other Than Nonpayment and Holdover Proceedings	174
A. Ejectment Actions	174
B. HP Proceedings	176
C. Article 7-A Proceedings	182

D.	Proceedings Under the Tenant Protection Act in New York City.....	182
E.	Illegal Lockout/Unlawful Eviction Actions and Proceedings	184
	1. Overview	184
	2. Summary Proceedings to Be Restored to Possession.....	184
	3. Criminal Penalties.....	186
	4. Plenary Actions for Damages/RPAPL § 853	186
	5. Defenses Against Illegal Lockout Allegations	186
F.	Foreclosure Proceedings.....	187
G.	<i>Yellowstone</i> Injunction Actions.....	193
H.	Plenary Actions Between Landlords and Tenants.....	195
VII.	Abandonment and Surrender of Possession	195
VIII.	Courts That Award Possession of Real Property	197
	A. Overview of Which Courts Adjudicate Summary Proceedings in Which Geographic Locations.....	197
	B. Supreme Court.....	198
	C. The New York City Civil Court	198
	D. New York State District Courts (Nassau and Suffolk Counties)	201
	E. City Court	202
	1. The Housing Part of Buffalo City Court	202
	a. History	202
	b. Code Violation Actions	203
	(1) The Initial Impetus Behind the Problem-Solving Model— District-by-District Scheduling	204
	(2) Use of Housing Court Liaisons	204
	(3) Arraignment	205
	(4) Use of Interlocutory Orders.....	206
	(a) Orders to Vacate	206
	(b) Demolition Orders	207
	(c) Receiverships.....	207
	(d) Case-Specific Orders	207
	(5) The Funding Calendar.....	208
	(6) Sentencing	208
	c. Evictions	211
	(1) Accessibility	211
	(2) Legal Representation for Qualifying Tenants	212
	(3) Linkage.....	212
	(4) Stays Until Housing Violations Are Addressed.....	212
	(5) Stipulations.....	213
	(6) Mandatory Mediation	213
	(7) Habitability Investigations and Hearings	214
	(8) Duty to Repair in the Commercial Setting	214
	(9) Hearing Before the Court Attorney/Referee	214
	(10) Money Judgments and Appearances in the Buffalo City Court.....	215
	(11) Attorneys Signing Petitions.....	215
	(12) Control of Out Dates	215

	(13) Evictions in Section 8 Tenancies	216
	(14) Conclusion.....	216
2.	City Courts Outside Buffalo and the City of New York	217
F.	Justice Courts.....	217
	1. Overview.....	217
	2. Eviction Proceedings Specific to Town and Village Courts in Upstate New York.....	218
	3. Justice Courts: Jurisdiction and Venue.....	218
	4. Notice of Petition.....	219
	5. Petition.....	220
	6. Service	221
G.	Surrogate's Court.....	221
H.	County Courts.....	222
I.	Federal Courts	222
IX.	Appeals.....	222
X.	Conclusion	226
Appendix 1	Duties of Housing Court Liaisons	227
Appendix 2	Script for Arraignments	229
Appendix 3	Order for Access	233
Appendix 4	Order to Vacate	235
Appendix 5	Order Appointing Receiver.....	237
Appendix 6	Response to Violation Notice/Request for Rehabilitation Funding Assistance	241
Appendix 7	Petition Addendum	243
Appendix 8	Memorandum, Decision and Order	245
Appendix 9	Stipulation.....	249
Appendix 10	Referral to Department of Health for Premises Violations.....	251
Appendix 11	Request for Extension of Time for Issuance or Execution of a Warrant of Eviction.....	253
Residential Landlord-Tenant Forms Index		257
Table of Authorities		437
About the Authors.....		485

INDEX OF FORMS

I.	Predicate Notices	
	A. Notice of Non-Renewal	261
	B. Notice of Termination.....	263
	C. Notice to Cure.....	264
	D. Ten-Day Notice to Quit	265
	E. Thirty-Day Notice of Termination.....	266
	F. Three-Day Rent Demand.....	267
II.	Petition	
	A. Holdover Petition.....	269
	B. Nonpayment Petition	273
III.	Notices of Petition	
	A. Notice of Petition (Holdover—City Courts Outside NYC).....	277
	B. Notice of Petition (Holdover—District Courts).....	278
	C. Notice of Petition (Holdover—NYC).....	279
	D. Notice of Petition (Nonpayment—City Courts Outside NYC)	281
	E. Notice of Petition (Nonpayment—District Court)	283
	F. Notice of Petition (Nonpayment—NYC)	285
IV.	Affidavits of Service	
	A. Affidavit of Service Pursuant to RPAPL § 735 (Nonmilitary Affidavit).....	287
	B. Affidavit of Service by Conspicuous Place Service	289
	C. Affidavit of Service by Mail	290
	D. Affidavit of Service by Mail (NYC Civil Court)	291
	E. Affidavit of Service by Personal Delivery	293
	F. Affidavit of Service by Personal Delivery (NYC Civil Court)	294
	G. Affidavit of Service by Substituted Service.....	295
	H. Affidavit of Service of Petition and Notice of Petition (Personal/Substituted/Conspicuous)	297
	I. Affidavit of Service Other Than by Personal Delivery.....	299
	J. Affidavit of Service Other Than by Personal Delivery (NYC Civil Court)	300
	K. Affidavit of Service of Order to Show Cause and Affidavit in Support	301
	L. Affidavit of Service of Judgment With Notice of Entry	303
V.	Non-Military Affidavits	
	A. Affidavit of Military Investigation.....	304
	B. Non-Military Affidavit of Investigator	305
	C. Request for Military Status Restricted Access	307
VI.	Verifications	
	A. Attorney Verification Pursuant to RPAPL § 741	309
	B. Verification (Corporation)	310
	C. Verification (Individual)	311
	D. Verification (Partnership).....	312
	E. Verified Petition in Support of Order to Show Cause.....	313
VII.	Answer	
	A. Landlord/Tenant Answer in Person	314
	B. Notice of Appearance and Answer With Counterclaim (Holdover Proceeding)....	315

C.	Notice of Appearance and Answer With Counterclaims (Nonpayment Proceeding).....	317
D.	Answer in Writing and Verification.....	321
E.	Answer in Person and Verification	323
VIII.	Application to Waive Court Fees	
A.	Affidavit in Support of an Application to Commence an Action as a “Poor Person” and to Waive Court Fees	325
B.	<i>Ex Parte</i> Order Granting Leave to Proceed as a “Poor Person” and to Waive Court Fees.....	327
C.	Affidavit in Support of an Application to Proceed as a “Poor Person” and to Waive Court Fees (NYC Civil Court).....	328
D.	Affidavit in Support of an Application to Proceed as a Poor Person and Authorizing the State to Pay the Costs for the Production of a Stenographic Transcript.....	329
IX.	Article 7-A Proceeding	
A.	Notice of Petition for Deposit of Rents Pursuant to Art. 7-A.....	331
B.	Verified Petition to Appoint Administrator Pursuant to Art. 7-A.....	333
X.	Inspections	
A.	Inspection of Premises	335
B.	Judicial Request/Order for Housing Inspection.....	336
C.	Request for the Report of Resource Assistant Premises Visit	337
D.	Tenant’s Request for Inspection.....	338
XI.	HP Proceedings	
A.	Affidavit in Support of Order to Show Cause to Restore to Calendar for a Compliance Hearing for the Assessment of Civil Penalties	339
B.	Affidavit in Support of Order to Show Cause to Restore to the Calendar.....	341
C.	Judgment for Civil Penalties.....	342
D.	Order to Show Cause Directing the Correction of Violations (HP Action).....	343
E.	Order to Show Cause Directing the Correction of Violations	345
F.	Order to Show Cause to Restore to Calendar for a Compliance Hearing for the Assessment of Civil Penalties	347
G.	Verified Petition in Support of Order to Show Cause Directing the Correction of Violations	349
XII.	Motion to Dismiss	
A.	Affidavit in Support of Motion to Dismiss	351
B.	Notice of Motion to Dismiss Proceeding.....	353
C.	Affidavit in Opposition to Motion	355
XIII.	Reply Affidavit	
A.	Reply Affidavit	357
XIV.	Pro Se	
A.	Order to Show Cause to Permit a Represented Party to Appear in Person (Pro Se) and Supporting Affidavit	359
XV.	Withdrawal of Funds	
A.	Affidavit in Support of an Order for Withdrawal of Funds	361
XVI.	Subpoenas	
A.	Subpoena to Testify	363

	B. Affidavit of Service of a Subpoena to Testify	364
	C. Subpoena for Records.....	365
	D Affidavit of Service of a Subpoena for Records	366
	E. Affidavit in Support of a Requisition for an Order for the Examination of Subpoenaed Records and Order for the Examination of Subpoenaed Records....	367
XVII.	Guardian ad Litem	
	A. Order Appointing Guardian ad Litem.....	368
	B. Guardian Ad Litem Request Form	369
	C. APS Housing Court Referral Form.....	371
XVIII.	Transfer Order	
	A. Transfer Order.....	373
XIX.	Order to Produce	
	A. Order to Produce.....	374
XX.	Contempt	
	A. Order of Commitment to Punish for Contempt	375
	B. Warrant to Punish for Contempt	376
	C. Order to Punish for Contempt	377
	D. Order to Show Cause to Punish for Contempt of Court	379
	E. Order to Show Cause to Punish for Contempt	381
	F. Affidavit in Support of Motion to Punish for Contempt of Court	383
XXI.	Interpreter Request Form	
	A. Interpreter Request Form.....	385
XXII.	Consumer Affairs Report	
	A. Report to the Department of Consumer Affairs of a Hearing on the Sufficiency of Service.....	386
XXIII.	Fair Debt Collection Letter	
	A. Fair Debt Collection (FDCPA) Letter.....	387
XXIV.	Stipulation of Settlement	
	A. Stipulation of Settlement (Holdover—Providing for Vacatur)	388
	B. Stipulation of Settlement (Holdover; Providing for Cure—Breach of Lease)	389
	C. Stipulation of Settlement (Nonpayment Proceeding With Final Judgment)	391
	D. Stipulation of Settlement (Nonpayment Proceeding Without Final Judgment)	393
	E. Stipulation of Settlement Form (Civil Court).....	395
	F. Surrender Agreement 1	397
	G. Surrender Agreement 2.....	401
	H. Surrender Agreement 3.....	405
XXV.	Judgment	
	A. Decision and Judgment (of Decision/Order/Judgment)	411
	B. Notice of Entry	412
XXVI.	Vacating Default	
	A. Affidavit in Support of Application to Vacate Default	413
	B. Order to Show Cause to Vacate Default Judgment and Warrant	415
XXVII.	Supporting Affidavits to Vacate Judgment	
	A. Affidavit in Support of an Order to Show Cause to Vacate a Judgment Based Upon Failure to Answer, to Permit the Filing of a Late Answer and to Place the Case on the Calendar.....	417

B.	Affidavit in Support of an Order to Show Cause to Vacate a Judgment Based Upon (a) Failure to Appear (b) Failure to Comply and to Restore to the Calendar	418
XXVIII.	Warrants	
A.	Marshal's Notice of Eviction	419
B.	Warrant Requisition Form	420
C.	Request for Warrant	421
D.	Request for Final Order and Issuance of Warrant.....	422
E.	Warrant	423
XXIX.	Restore to Possession	
A.	Order to Show Cause to be Restored to Possession and for Damages After Unlawful Eviction	425
B.	Order to Show Cause in Lieu of Notice of Petition to Restore to Possession	427
C.	Verified Petition in Support of Order to Show Cause for Restoration to Possession.....	429
D.	Affidavit in Support of an Order to Show Cause to Restore to Possession	431
XXX.	Transcript	
A.	Request for Audio Record	432
XXXI.	Appeal	
A.	Notice of Appeal.....	433
B.	Notice of Transmittal of Transcript	434
C.	Notice of Settlement of Transcript.....	435
XXXII.	Unavailability	
A.	Affidavit of Unavailability with Request for Adjournment	436

PETER G. DISKINT, ESQ.

Peter Diskint has served the Justices of the Appellate Term, First Department for over 30 years as Court Attorney, Chief Court Attorney, and, presently, Chief Clerk. He is a frequent lecturer on landlord-tenant issues at seminars sponsored by the New York State Office of Court Administration and the New York City Housing Court Judges Association. A 2005 recipient of the New York County Lawyers' Association's Public Service Award, Mr. Diskint graduated from Brooklyn Law School (J.D.) and New York University Law School (LL.M.).

DAMON P. HOWARD, ESQ.

Damon P. Howard is a founding partner of Ephron-Mandel & Howard, L.L.P., located in New York City. His experience ranges from commercial litigation, including actions for injunctive and declaratory relief, to residential and commercial landlord-tenant issues. Mr. Howard is a graduate of the University of Texas at Austin and the Tulane University Law School. He is admitted to practice in New York, the Southern District of New York, New Jersey, and Louisiana.

HONORABLE GERALD LEBOVITS

Gerald Lebovits has been a New York City judge since 2001. He currently presides in New York City Civil Court, where he serves as the secretary of the Board of Judges. Previously, he presided in Criminal Court and Housing Court, where he served as the president of the Association of Housing Court Judges. A part-time teacher for 30 years, he is an Adjunct Professor of Law at Columbia Law School, Fordham University School of Law, New York Law School, and New York University School of Law. Previously, he was an adjunct professor at St. John's University School of Law. Active in the New York State Bar Association, for which he has lectured at many Continuing Legal Education programs, he is a past Co-chair of the Association's Committee on Landlord and Tenant Proceedings, has authored the *Bar Journal's* Legal Writer column since 2001, and has published 25 articles in the Association's journals, 19 of them in the Association's *New York Real Property Law Journal*. A native of Canada, he graduated from the Ottawa (LL.B.), Tulane (M.C.L.), and New York University (LL.M.) law schools.