New York State Vacate Default Judgment – Consumer Debt DIY Program

Read the papers carefully.

Make sure that all the information you gave is correct. Fix any mistakes before you print. Print on only one side of the paper.

DO NOT SIGN the Affidavit unless you are in front of a Notary Public.

You will need these papers to ask the court to vacate (cancel) the default judgment against you:

\square	Documents and Forms Checklist	To Do
	Order to Show Cause	Submit to Judge for signature
	Affidavit in Support of Order to Show Cause	Sign in front of a Notary Public
	Answer	Sign in front of a Notary Public
	Request for Judicial Intervention (RJI)	Sign.
	Affidavit in Support of Notification	See below
	Affidavit of Service	Signed by the person who served the papers
	Court fee	Cash. Contact the County Clerk's Office for information about other payment methods
	NYS DIY Forms User Survey	Complete
	Change for copy machines	

What should I do now?

Read the papers and make sure that the information is right. Fix any mistakes. You must sign the Affidavit in Support of the Order to Show Cause and the Answer in front of a Notary Public. Fill in the User Survey. Sign the RJI.

Do not sign the Order to Show Cause or Affidavit of Service.

Get the Affidavit in Support of Notification. You must tell the other side that you will be filing for an Order to Show Cause for a stay. Contact the

Plaintiff's attorney by phone, mail, or fax and let them know when and which court you will be filing your papers. Fill out the Affidavit in Support of Notification. Do not sign unless you are in front of a notary public. This form should be filed with the County Clerk's Office.

How many copies do I need?

You need three sets of the papers plus the original signed set. If you have copies with you, ask the Clerk how to "conform" the copies. Or ask where you can make copies. You may need to bring change for the copy machine or pay the Clerk to make copies.

After you make the copies, you must file the original signed papers in the Clerk's Office. You may have to bring them to the County Clerk's Office. The Clerk will keep your original papers and stamp your copies with the date.

Where do I go first?

To begin, go to the County Clerk's Office with the following papers:

- Affidavit in Support of Notification
- RJI (Depending on the county, you may not need to file this form)
- Order to Show Cause
- Affidavit in Support of Order to Show Cause
- Answer
- Court fee

You can pay the court fee in cash or contact the County Clerk's Office to see how else you can pay. The Clerk will stamp your papers.

You may have to go to a different floor or building to submit your papers in the Supreme Court.

Where is the County Clerk's Office located?

Kings County Clerk's Office 360 Adams Street, Room 189 Brooklyn, NY 11201

(347) 404-9760

Where is the Supreme Court located?

360 Adams St. Brooklyn, NY 11201

(347) 296-1714

How much are the court fees?

There is a court fee of \$45.00 to file the Order to Show Cause. There may be other court fees.

What if I can't afford the court fees?

If you can't afford the fees and want to have them waived, you can ask for a Fee Waiver Application (also known as a Poor Person Affidavit). Depending on the county, you can ask for a Fee Waiver Application from the County Clerk or the Court Clerk. File your Fee Waiver Application with your Affidavit.

If the Judge grants you a fee waiver, you can continue without having to pay. If the Judge does not give you a fee waiver, you will have to pay the court fee. Ask the Court Clerk for more information.

How do I submit my Order to Show Cause to the Judge?

Take the Order to Show Cause, Affidavit in Support of the Order to Show Cause and DIY User Survey to the Supreme Court Clerk's Office.

Give your papers to the Clerk. You may have to take the papers to the Judge's courtroom to get them signed. The Clerk will tell you where to go if you have to come back later or where to wait while the Judge looks at the papers.

If the Judge signs the Order to Show Cause you will need to make copies.

How are the papers served?

The papers must be delivered the way the Judge says in the Order to Show Cause. Read the Order to Show Cause. Follow the Instructions for the Service of the Order to Show Cause that is printed with this program. If you do not serve the papers the right way your Order to Show Cause will be denied.

What happens on the court date?

Depending on the court and county where you filed you will be mailed a copy of the decision or you might have to go to court for the decision. Ask the clerk what the procedure is for your case.

If the clerk tells you that you have to go to court for the decision, go to court on the date in your Order to Show Cause. Get there early because you must go through a metal detector before going in the courthouse. If you do not come to court, your Order to Show Cause will be denied. Bring anything you have to show that the plaintiff must not win the case. For example, if you are saying that you paid the money, bring receipts or canceled checks. The Information about your defenses that printed with this program will help you prepare for court. You can learn more on the court's website at www.nycourthelp.gov.

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF KINGS	Index Nø. 505315/2024
CKS Prime Investments, LLC, Plaintiff,	- -
– against –	ORDER TO SHOW CAUSE
Sheila T Johnston, Defendant.	_
Upon the Affidavit of Sheila T Johnston, De	efendant, sworn to the day of
, 20, and upon all prior pa	pers and proceedings,
Let the Plaintiff or Plaintiff's Attorney show of	cause before one of the Justices of
this Court, to be held at the Supreme Court located	d at 360 Adams St., Brooklyn in the
County of Kings, State of New York, on the d	ay of, 20, at
a.m./p.m., or as soon thereafter as the pa	arties can be heard, why an order
should not be made vacating the judgment on defa	ult for failure to appear, restoring the
case to the calendar, and granting such other and	further relief as may be just and
proper.	
Ordered, that pending the hearing and deter	rmination of this motion, all
proceedings by Plaintiff, Plaintiff's attorney and age	ents, and any Marshal, Constable or
Sheriff for the enforcement of this judgment are sta	ayed, and it is further
Ordered that Sheila T Johnston serve a cop	y of this order and annexed affidavit
on the Plaintiff's attorney, Cohen & Cohen Law LL	C at the following address: 540 E
180th St, SUITE 203	
Bronx, NY, 10457 by:	
□ personal in-hand delivery	

	other delivery:, a	and
	he Sheriff, Marshal or other enforcement officer, at the following address:	
		by
	□ personal in-hand delivery	
	□ other delivery	
	on or before, 20 This ord	er
	together with proof of service must be returned to the Court Clerk's of	fice
	on or before, 20	
Date		
	Justice of the Supreme Court	

SHEILA T JOHNSTON, being duly sworn, deposes and says:

- I am a defendant and I am making this request in support of the Order to Show
 Cause to vacate a default judgment, and dismiss this case for lack of personal
 jurisdiction pursuant to CPLR 5015(a)(4).
- 2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. The documents explaining my mother owed were only sent one to a mailing address. The mail was not certified. They were never physically handed to my mother. My mother was receiving care at a physicality for memory care at the time when they were mailed.
- Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1)
 and the case restored to the calendar and the attached Proposed Answer deemed
 timely filed.
- 4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I was out of town at the time I should have filed an answer.
 - b. I was sick.

- c. My mother has been in and out of nursing homes since 2020. Currently and at the time of this consumer debt account she was not even in NY sate. I have provided proof included here. I have had evidence my mother was the victim of Identity theft and fraud during the time she was receive out of home care.
- 5. I have the following meritorious defense(s):
 - a. There is no debt collector's license number in the complaint.
 - b. I am a victim of identity theft or mistaken identity.
 - c. I have no business relationship with the plaintiff so the plaintiff lacks standing.
 - d. My mother did not have the mental capacity to open any account with a credit card company during the said time.
- 6. I receive pension or retirement money, which is exempt from collection.
- 7. I receive social security benefits, which are exempt from collection.
- 8. I have not asked for a previous Order to Show Cause in this case.
- 9. My bank account has been frozen. Plaintiff has frozen the following: Citibank.

Relief

10. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacatur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.

	Sheila T Johnston, Defendant
Sworn to before me this day	
of, 20	
Notary Public	

COUNTY OF KINGS	Index Nø. 505315/2024		
CKS Prime Investments, LLC, Plaintiff,	-		
– against –	WRITTEN ANSWER CONSUMER CREDIT TRANSACTION		
Sheila T Johnston, Defendant.			

SHEILA T JOHNSTON, answers the Complaint as follows:

- 1. General Denial: I deny the allegations of the Complaint.
- 2. There is no debt collector's license number in the complaint.
- 3. I am a victim of identity theft or mistaken identity.
- 4. I have no business relationship with the plaintiff so the plaintiff lacks standing.
- 5. My mother did not have the mental capacity to open any account with a credit card company during the said time.
- 6. I receive pension or retirement money, which is exempt from collection.
- 7. I receive social security benefits, which are exempt from collection.

VERIFICATION

State of	_)
County of	_) ss.:
action, I have read the Proposed Answe	orn, deposes and says: I am the Defendant in this er Consumer Credit Transaction and know the ge, except for those matters alleged to be on matters, I believe them to be true.
	Sheila T Johnston, Defendant
Sworn to before me this day	
of, 20	
Notary Public	

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF KINGS	Index Nø. 505315/2024		
CKS Prime Investments, LLC, Plaintiff,			
- against -	AFFIDAVIT IN SUPPORT OF NOTIFICATION		
Sheila T Johnston, Defendant.	Uniform Rule Section 202.7		
Sheila T Johnston, being duly sworn, says:			
I am a self represented defendant in this case. I am cause requesting a stay.	about to submit an order to show		
[Check one and complete.]			
☐ I have made a good faith effort to notify the Plair	ntiff in a manner sufficient to permit		
the party an opportunity to appear in response t	o the application below.		
On (Date), I telephoned t	he Plaintiff's attorney,Cohen &		
Cohen Law LLC			
at and spoke to _ Telephone number called			
Telephone number called	Name of person		
telling them that I will be submitting an order to	show cause requesting a stay on		
at an Date Going to File Papers Time	n/pm at the Courthouse located at		
360 Adams St., Brooklyn. The person said the F			
(Circle one) did / did not intend to appear in res	•		
☐ I did not try to give notice to the Plaintiff. I believ			
significant prejudice because:			
She	eila T Johnston, Defendant		
Sworn to before me this day			
of, 20			
···			
N. D. L.			
Notary Public			



REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (rev. 11/24/2022)

SUPREME COURT, COUNTY OF KINGS

Index No.: 505315/2024 Date Inde	ex Issued:/	For Court Use Only:		
CAPTION: Enter the complete case caption. Do not use et al or et ano. If more	space is needed, attach a caption rider sheet.	IAS Entry Date		
CKS Prime Investments, LLC				
Plaintiff(s)				
		Judge Assigned		
-against-				
Sheila T Johnston				
Defendant(s)		RJI Filed Date		
NATURE OF ACTION OR PROCEEDING Check only one box and	specify where indicated			
COMMERCIAL	MATRIMONIAL			
☐ Business Entity (including corporations, partnerships, LLCs, etc.)	□ Contested			
☑ Contract	NOTE: If there are children under the age of 18,	complete and attach the		
☐ Insurance (where insurer is a party, except arbitration)	MATRIMONIAL RJI Addendum (UCS-840M)			
☐ UCC (including sales, negotiable instruments)	For Uncontested Matrimonial actions, use Unco	, ,		
☐ Other Commercial (specify):	REAL PROPERTY Specify how many propert	ies the application		
NOTE: For Commercial Division assignment requests 22 NYCRR § 202.70(d),	includes:			
complete and attach the COMMERCIAL DIV RJI Addendum (UCS-840C).	☐ Condemnation			
TORTS	☐ Mortgage Foreclosure (specify): ☐ Residen	itial 🗆 Commercial		
☐ Adult Survivors Act	Property Address:			
□ Asbestos	NOTE: For Foreclosure actions involving a one-to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the FORECLOSURE RJI Addendum (UCS-840F). □ Tax Certiorari □ Tax Foreclosure □ Other Real Property (specify):			
☐ Environmental (specify):				
☐ Medical, Dental, or Podiatric Malpractice				
☐ Motor Vehicle				
☐ Products Liability (specify):				
☐ Other Negligence (specify):	OTHER MATTERS			
☐ Other Professional Malpractice (specify):	☐ Certificate of Incorporation/Dissolution [see N	IOTE under Commercial]		
☐ Other Tort (specify):	☐ Emergency Medical Treatment			
SPECIAL PROCEEDINGS	☐ Habeas Corpus			
☐ Child-Parent Security Act (specify): ☐ Assisted Reproduction	□ Local Court Appeal			
□Surrogacy Agreement	☐ Mechanic's Lien			
□ CPLR Article 75 - Arbitration [see NOTE under Commercial]	□ Name Change [No fee – N.Y.Ct.Rules, § 202.6(b)]			
CPLR Article 78 - Proceeding against a Body or Officer	☐ Pistol Permit Revocation Hearing			
□ Election Law	☐ Sale or Finance of Religious/Not-for-Profit Property			
Extreme Risk Protection Order	☐ Other (specify):			
MHL Article 9.60 - Kendra's Law				
☐ MHL Article 10 - Sex Offender Confinement (specify): ☐ Initial ☐ Review				
☐ MHL Article 81 (Guardianship)				
☐ Other Mental Hygiene (specify):				
☐ Other Special Proceeding (specify):				
STATUS OF ACTION OR PROCEEDING Answer YES or NO for every	question and enter additional information where ind	icated		
	YES NO			
Has a summons and complaint or summons with notice been filed?	☐ ☐ If yes, date filed:/ ☐ ☐ If yes, date served:/			
Has a summons and complaint or summons with notice been served? Is this action/proceeding being filed post-judgment?	□ □ If yes, date served:/ □ □ If yes, judgment date:/			
To the determproducting boning mod post judgment:				

NATURE	OF JUDICIAL INTERV	ENTION Che	eck one box only and	enter additional in	nformation where indicate	d.	
□ Infan	its Compromise						
☐ Extre	eme Risk Protection Order	Application					
	of Issue and/or Certificate						
	ce of Medical, Dental, or Po				/		
	ce of Motion	Rel	ief Sought:		Return Date:	/	
	ce of Petition	Rel	ief Sought:		Return Date:	/	
	er to Show Cause				Return Date:	/	
	r Ex Parte Application	Rei	ief Sought:				
	Person Application	222					
	uest for Preliminary Conferd dential Mortgage Foreclosu		onforonco				
	of Habeas Corpus	ire Settlernerit Ct	inerence				
	r (specify):						
		tadastiana Fau	Matrice enial actions	:	d criminal and/or Family (2at aaaaa 16 aaaa	lance blank
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PARTIES	For parties without an If additional space is r				phone number and e-mai	I in the space provid	ed.
	Parties		Attorneys and/o	Unrepresented	Litigants	Issue Joined	Insurance Carriers
Un-Rep	List parties in same order a				ney's name, firm name,	For each defendant,	For each defendant,
	caption and Indicate roles (e.g. plaintiff,		address, phone an party's address, pho		resented parties, provide	indicate if issue has been joined	indicate insurance carrier, if applicable
	defendant; 3rd-party plaintiff	, etc.).				been joined	саттет, п аррпсавте
	Name:	onto IIC	Cohen & Cohe				
	CKS Prime Investme	enis, LLC	540 E 180th S	·			
Ш	Role(s):		Bronx, NY, 10	457	☐ YES ☐ NO		
	Plaintiff						
	Name:		Sheila T John	ston			
	Sheila T Johnston						
$\overline{\mathbf{V}}$			185 Hall St, Apt. 413 Brooklyn, NY, 11205			☐ YES ☐ NO	
	Role(s):		Brooklyn, NY, 11205				
	Defendant						
	Name:						
	Dolo(o)					☐ YES ☐ NO	
ш	Role(s):					120 110	
	Name:						
	ivaille.						
	Role(s):					☐ YES ☐ NO	
Ш						123 100	
LAFF	IRM UNDER THE PE	ENALTY OF F	PERJURY THAT	UPON INFOR	RMATION AND BEL	IEF. THERE AF	RE NO OTHER
	ELATED ACTIONS O						
			•		THIS ACTION OR		
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Dated: _	/						
	n/	- d		SH	IEILA T JOHNSTON		
Δ	<u>n/a – unrepresente</u> TTORNEY REGISTRATIO						

Instructions for the Service of the Order to Show Cause

What papers have to be served on CKS Prime Investments, LLC?

These papers have to be served on (delivered to) CKS Prime Investments, LLC:

- Copy of the Order to Show Cause
- Copy of the Affidavit in Support of the Order to Show Cause
- Copies of any other papers you submitted to the court with your Order to Show Cause

The originals of the signed Order to Show Cause and the Affidavit in Support of the Order to Show Cause are kept by the Court. Make sure you make and keep a copy of all the papers for yourself.

Who should serve the papers?

In your Affidavit in Support of the Order to Show Cause you asked the Judge for permission to serve the papers yourself. Look at the signed Order to Show Cause and see if it says that you can serve the papers.

If the Judge did not say that you can serve the papers then you need to have someone else who is over 18 serve the papers. You can ask a friend or hire a process server.

How should the papers be served on CKS Prime Investments, LLC?

The papers must be served the way the Judge says in the Order to Show Cause. The papers must be served on or before the date directed in the Order to Show Cause.

For example, if the Order to Show Cause says that the papers must be served by "personal inhand delivery" this means that they must be handed to someone in the plaintiff's office who is authorized to accept service of the papers. If the plaintiff does not have an attorney, the papers should be handed to the plaintiff. Ask the person who is handed the papers to show the service by signing and putting the date on the back of your copy. You can give this to the court instead of filling out the Affidavit of Service.

Depending on the type of service ordered by the Judge you may need to go to the Post Office and get a Certificate of Mailing form, a Certified

Mailing form, and/or a Return Receipt Requested green card form. Give the Post Office window clerk the envelope(s) to be mailed and the completed required postal forms. The postal clerk will mail the envelope(s) and will stamp the required forms and return them to you. Attach these forms to the Affidavit of Service form. Th proves you mailed them.

Who do I have to serve?

Serve one set of the papers on CKS Prime Investments, LLC's attorney, or, if there is no attorney, on CKS Prime Investments, LLC.

If there is a sheriff, marshal or constable on your case, you must also serve a set of papers on him or her.

I've served the papers, what do I do now?

After the papers are served, the person who served the papers must fill out the Affidavit of Service form that is printed out with this program. A process server can use his or her own form. If the plaintiff signs and puts a date of the service on the back of your copy you do not need the Affidavit of Service. You can bring this to court instead.

The Affidavit of Service must be signed in front of a Notary Public. The Affidavit of Service (or the signed and dated copy of the Order to Show Cause) must be returned to the Court to prove that the papers were served. Check the Order to Show Cause to see if it requires you to return the proof of service to the Court *by a specific date*.

COUNTY OF KINGS		E OF NE	W YORK		x Nø. 50531	5/2024
CKS Prime Investm	ents, LLC, Plaintiff,			_		
– against –					AFFIDAVI	T OF SERVICE
Sheila T Johnston,	Defendant.					
State of		_)				
County of		_) ss:				
Na I am 18 years old o	ame of Server		,	being d	uly sworn, c	deposes and says:
			Address	of Serve	•	·
I served the Order	to Show Caus	se, Answ	er and A	Affidavit	in Support	of the Order to
Show Cause on Pla	aintiff CKS Pr	ime Inve	stments	, LLC by	/ :	
personal deliver	ry to				on	l
		Name of	Person S	Served		Date
	_ AM / PM in _. Circle one		ounty	,	New York.	I know the person
served is the	olationship to Pl	aintiff (DI	aintiff / Att	ornov / A	gent / Employe	The following
is a description				Officy / A	gent / Employ	56)
Sex:		mate Age		Colo	or of Skin:	
		•				te Height:
☐ mail to Plaintiff's	·	Name	e of Plainti	iff's Attorr	ney Served	at the
following addres	3S				aintiff's Attorn	ey
on	 Date	by			□ certifie	•
□ other						

Ш	personal delivery to the $\ \square$ Marshal, $\ \square$ Constable, $\ \square$ Sheriff,	
	on	_ at
	Name of Marshal / Constable / Sheriff Date	
	AM / PM in, New York. The following Time Circle one County	
	is a description of the individual served:	
	Sex: Approximate Age: Color of Skin:	
	Color of Hair: Approximate Weight: Approximate Height:	
	mail to the ☐ Marshal, ☐ Constable, ☐ Sheriff,	
	Name of Marshal / Constable / Sheriff Served	
	Address of Marshal / Constable / Sheriff	
	on by regular mail certified mail Date	
	_ other	
	Signature of Server	
Sw	orn to before me this	
	day of, 20	
No	tary Public	

INFORMATION ABOUT YOUR DEFENSES

The summons and complaint were not served properly. Papers starting the case have to be given to you ("served") in one of these ways. The person serving the papers can:

- 1. Hand it to you, or
- 2. Hand it to someone who lives or works in your home or to someone who works with you and is old enough to be responsible. A copy of the summons and complaint must be mailed to you in an envelope marked "Personal and Confidential" by 20 days of the service on the substitute person that took the papers for you. The envelope may not say that it is from an attorney or that it is about a case against you.
- 3. The person must make two tries to give the papers to you or someone who lives or works with you. If nobody can be found, the person can tape the papers on the door and mail you a copy in an envelope marked "Personal and Confidential" by 20 days of leaving the papers at your door. The envelope may not say that it is from an attorney or that it is about a case against you.

Also, the court mails you a letter telling you that a case has been started against you. If you only got this letter, you were not served properly.

There is no debt collector's license number in the complaint. Most companies who buy debt must be licensed by the New York City Department of Consumer Affairs and must list the license number on the complaint. Use this defense if the plaintiff did not list a license number. The court may dismiss the case or may let the plaintiff change (amend) the complaint to list the license number.

You are a victim of identity theft or mistaken identity. Identity theft is when somebody steals your name and personal information and opens up credit accounts in your name pretending to be you. Mistaken identity is when you are sued for somebody else's debts because you have similar names or identifying information.

You have no business relationship with the plaintiff so the plaintiff lacks standing. Use this defense when you don't know who the plaintiff is and how the

plaintiff got to own your debt. The plaintiff may have bought your debt from the person or company that you owed money to. Because you never signed a contract with the plaintiff who bought your debt, you can ask if the plaintiff can sue you (also known as standing to sue you). The plaintiff must prove to the court that it owns your debt. To do this, the plaintiff must have a contract of sale (assignment) that says your debt has been sold.

Protected Income. Protected income is not a defense, but some money can't be taken from you for payment of debts. The plaintiff can still get a judgment against you but you will not have to pay the judgment unless your situation changes. For example, if you get a job or win the lottery, then you will have to pay the judgment. Bring proof to show the judge where you get your money.

NYS DIY Forms User Survey

Thank you for taking the time to fill out this quick survey. Please return it with your completed papers.

1.	How comfortable are you using a computer and/or the internet? ☐ Not comfortable ☐ Comfortable	7.	Do you think the DIY program saved you time? ☐ Yes. ☐ No.
2.	□ Very comfortableDo you have the internet at home?□ Yes.	8.	How did you learn about this program? ☐ Word of mouth ☐ Internet search
3.	□ No. Where did you use this program? □ Home		☐ Court employee☐ Poster, sign, postcard, etc.☐ Other:
	☐ Court Clerk's Office ☐ Court Help Center ☐ Court library ☐ Work ☐ Other:	9.	We really appreciate your help. Do you have any suggestions or comments to add?
4.	Were the questions, definitions and "learn mores" clear to understand? ☐ Yes.		
	□ No. Which weren't clear?	<u>Op</u>	otional questions:
	Did you listen to the "guide" speak during the program? ☐ Yes. ☐ No. Have you used a court DIY Forms program before? ☐ Yes. Which ones?	1.	How old are you? ☐ Between 18 and 24 ☐ Less than \$19,999 ☐ Between 25 and 34 ☐ \$20,000 to \$34,999 ☐ Between 35 and 44 ☐ \$35,000 to \$49,999 ☐ Between 45 and 54 ☐ Between 55 and 64 ☐ \$65,000 to \$79,999 ☐ \$100,000 to \$124,999 ☐ \$125,000 to \$149,999
			□ \$150,000 or more

Office Use:

Court Clerk: Digitally scan and email this survey to DIYfeedback@nycourts.gov or mail to NYS Courts Office for Justice Initiatives, 111 Centre Street, 12th Floor, New York, NY 10013