

NY Sample Notice of Appearance

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For additional resources relating to the protection, enforcement, and advancement of crime victims' rights, please visit www.ncvli.org and the website of our membership alliance, the National Alliance of Victims' Rights Attorneys & Advocates, www.navra.org.

[Attorney Name] ([State] Bar # [number])
[Address]
[Phone]
[Email address]

Attorney for the Crime Victim

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF [COUNTY]**

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PEOPLE OF THE STATE OF NEW YORK

Plaintiff,

-against-

[NAME OF DEFENDANT],

Defendant.

**Index No. [NUMBER/YEAR]
Hon. [ASSIGNED JUDGE]**

**NOTICE OF APPEARANCE OF
COUNSEL FOR CRIME VICTIM
AND ASSERTION OF RIGHTS**

TO THE CLERK OF [FILL IN] AND ALL PARTIES OF RECORD:

Pursuant to 22 NYCRR 200.5,¹ the undersigned, [Attorney Name], Esq., hereby notifies the clerk of this court and all parties of [his/her/their] appearance as counsel for the crime victim, [Name/Pseudonym],² and requests to be notified of all proceedings and to be provided copies of

¹ The Uniform Rules for the New York State Trial Courts provide that “[e]ach attorney appearing in a criminal action is required to file a written notice of appearance on or before the time of the attorney’s first appearance in court or not later than 10 days after appointment or retainer, *whichever is sooner*.” 22 NYCRR 200.5 (emphasis added). Because the rule does not explicitly limit its application to attorneys for one of the parties in a criminal case, *e.g.*, prosecutors and defense attorneys, the undersigned files this notice of appearance within the proscribed period to comply with the court rule.

² [Practitioner’s Note]: If you are using a pseudonym for the victim in a legal brief for the first time to protect his/her/their privacy, consider adding this footnote: All references herein to the crime victim shall refer to [Pseudonym] to protect [his/her/their] privacy. *See generally Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (recognizing that the United States Constitution provides a right to personal privacy, which includes an “individual interest in avoiding disclosure of personal matters”); *Roe v. Wade*, 410 U.S. 113, 152-53 (1973) (stating “a right to

all filings throughout the duration of the case. By and through counsel, the crime victim asserts [his/her/their] rights pursuant to all applicable law, including the following rights under

Executive Law section 646-a:

- The right to notice of “judicial proceedings relating to their case” (N.Y. Exec. Law § 646-a(2)(b));
- The rights “to be protected from intimidation and to have the court, where appropriate, issue protective orders” (N.Y. Exec. Law § 646-a(2)(c));
- The right “to submit, where appropriate, a victim impact statement for the pre-sentencing report and the parole hearing” (N.Y. Exec. Law § 646-a(2)(d));
- The right to be heard at sentencing in a felony case (N.Y. Exec. Law § 646-a(2)(e)); and
- The right to restitution (N.Y. Exec. Law § 646-a(2)(f)); and
- The right to be informed of defendant’s incarceration status (N.Y. Exec. Law § 646-a(2)(g)).

Dated: _____

Respectfully submitted,³

personal privacy . . . does exist under the Constitution.”); *Crosby v. State, Workers’ Comp. Bd.*, 442 N.E.2d 1191, 1193-94 (N.Y. 1982) (recognizing an individual has a right to personal privacy under the federal constitution); *see also* N.Y. Civ. Rights Law § 50-b (providing that the “[t]he identity of any victim of a sex offense . . . shall be confidential”; “[n]o . . . court file or other documents . . . which identifies such a victim shall be made available for public inspection”; and disclosure of the victim’s identity is limited by statute); *People v. Bradford*, 937 N.E.2d 528, 529, n.* (N.Y. 2010) (“Because the [victim’s] identity must remain confidential[,] . . . in this opinion we refer to her as ‘Jane.’” (citing N.Y. Civil Rights § 50–b)).]

³ [Practitioner’s Note: In other jurisdictions, a crime victim’s attorney’s notice of appearance may be filed in a criminal case as a standalone notice (without an accompanying motion for rights enforcement). *See, e.g., United States v. Mahon*, No. CR 09-712-PHX-DGC, 2010 WL 94247 (D. Ariz. Jan. 5, 2010) (slip copy) (finding that filing a notice of appearance is a reasonable procedure for receiving copies of filings and ensuring the protection of the victim’s rights). In New York, practitioners should be aware of two trial court cases, *People v. Robinson*, 898 N.Y.S.2d 438 (Sup. Ct. 2010) and *People v. Smakaj*, No. 03867-2008, 2010 WL 2574051 (N.Y. Sup. Ct. Jun. 14, 2010). In each of these cases, a New York trial court rejected a crime victim attorney’s notice of appearance in the criminal case where nothing in the record showed the victim’s rights were at risk. *See Robinson*, 898 N.Y.S.2d at

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439 (denying the victim’s attorney’s request to file a notice of appearance; characterizing it as one that improperly “seeks to allow a private individual to become a party to a criminal prosecution”; and stating that “if either the People or the defendant in a criminal proceeding seek relief that might effect a non-party’s rights, including the complainant, that person has standing to enter the proceeding to ask the court to protect those rights”); *Smakaj*, 2010 WL 2574051, *2 (denying the victim’s attorney’s request to file a notice of appearance; stating the law does not permit the crime victim “to become a party to the criminal prosecution” or to “intervene or be joined in a criminal case”); and distinguishing this case from other cases where the victim and other third-party witnesses were properly permitted to file motions to quash subpoena *duces tecum* to prevent the disclosure of their records). *Robinson* and *Smakai* are not binding precedent, and they may be distinguished in a particular case. Nevertheless, practitioners may want to consider whether to add a standing argument in the notice of appearance, and whether to file the notice of appearance contemporaneously with a motion that seeks enforcement of a right that is at risk of being lost (or a right that has been violated) in order to have additional basis to support standing. Practitioners may contact NCVLI for technical assistance via [this page](#).]