



*New York State Archives*

**New York State Supreme Court of Judicature (Utica)  
Declarations J0009**

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## Table of Contents

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Overview of the Records .....	3
Arrangement .....	3
Scope and Contents .....	3
Related Information .....	5
Other Finding Aids .....	5
Use of Records .....	5
Administrative Information .....	5
Access Terms .....	6

## Overview of the Records

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<b>Repository:</b>	New York State Archives
<b>Summary:</b>	These records documenting pleadings of plaintiffs and defendants in common law actions include declarations of plaintiffs, defendant's pleas, replications, rejoinders, surrejoinders, cognovits, demurrers, reports of referees, reports of damages awarded, and writs of inquiry. The series contains plaintiffs' declarations, which were the initial pleadings in common law actions. The declaration was made out by the plaintiff's attorney after the defendant had been arrested by a writ of <i>capias ad respondendum</i> .
<b>Creator:</b>	New York (State). Supreme Court of Judicature (Utica)
<b>Title:</b>	Declarations
<b>Quantity:</b>	67.7 cubic feet
<b>Inclusive Date:</b>	1831-1842
<b>Series:</b>	J0009

[^ Return to Table of Contents](#)

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## Arrangement

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Alphabetical by name of plaintiff's attorneys, then chronological by filing date.

J0009-07: Bundled by first letter of filing attorneys' last names (O-Q, S).

[^ Return to Table of Contents](#)

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## Scope and Content Note

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These records document pleadings of plaintiffs and defendants in common law actions include declarations of plaintiffs, defendant's pleas, replications, rejoinders, surrejoinders, cognovits, demurrers, reports of referees, reports of damages awarded, and writs of inquiry.

This series contains plaintiffs' declarations, which were the initial pleadings in common law actions. (The abbreviated term for the declaration is "narr.", from the Latin "narratio"). The

declaration was made out by the plaintiff's attorney after the defendant had been arrested by a writ of *capias ad respondendum*. (After 1829 the writ of *capias* was optional in most actions, and proceedings could commence with service of the declaration.)

The declaration contains: caption (name of the court and term in which the writ of *capias* was to be returned); venue (county from which the jury is to come if the cause proceed to trial); commencement (names of the plaintiffs and defendants and of the plaintiff's attorney, manner of defendant's appearance, and a brief statement of the cause of action); statement of cause of action stating when, where, and how the plaintiff incurred the credit or sustained the damages alleged: it might be followed by several separate "counts," each stating the plaintiff's title to the thing demanded, whether it be performance of a contract, recovery of real or personal property, or compensation for injury to himself or his property (the counts each technically could be the ground for a separate action but were grouped together for convenience); and conclusion (demand for payment of debt or damages).

Printed forms were often used for common types of actions (e.g. trespass on the case and *assumpsit*). Following the declaration is the *oyer*, which is a copy of the promissory note or other written obligation sued upon. The notice of rule to plead usually appears on the dorso of the declaration. It informs the defendant that a rule has been entered in the common rule book kept by the clerk of the Supreme Court ordering him to plead within twenty days of service of the declaration. The sheriff's affidavit of service or non-service of the declaration and notice is appended or attached to the declaration.

Filed with the declarations are other documents relating to subsequent pleadings by defendant and plaintiff, and to determination of the amount of damages to be awarded. When a defendant pleaded the general issue, his written plea denied the injury and put in the proper plea (for example, "not guilty" in actions of trespass, case, and trover; "non *assumpsit*" in actions of *assumpsit*; "nil debet" in actions of debt). Subsequent pleadings are called the replication (plaintiff's reply to defendant's initial plea), rejoinder (defendant's reply to replication), and surrejoinder (plaintiff's reply to rejoinder). The defendant's plea sometimes contains more details about a dispute than the declarations do.

The purpose of pleading was to reach a point where an issue was joined, that is, defined precisely enough so that a jury could determine the facts. The parties then "put themselves on the country", and a copy of all the pleadings was compiled to be sent to a Circuit Judge for trial. This document was called the "Nisi Prius Record" or "Circuit Roll." The present series also contains many *cognovits* and *demurrers*. The *cognovit* is the defendant's confession to the facts alleged in the plaintiff's declaration. The *demurrer* is the defendant's formal exception to the sufficiency in law of the plaintiff's declaration. It did not dispute the facts of the case, and if the plaintiff did not move successfully to quash the *demurrer*, the presiding justice ruled on a point of law.

Other documents commonly found with the declarations are: court clerks' reports of damages awarded after a defendant failed to plead and judgment was awarded to the plaintiff on a non-suit; reports of referees appointed to determine the exact amount of damages due in complicated cases of money accounts; writs of inquiry directing a sheriff to empanel a jury to assess damages due to a plaintiff after being awarded interlocutory judgment upon the

defendant's default, demurrer, or confession. (The return attached to the writ of inquiry is called the inquisition.)

[^ Return to Table of Contents](#)

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## Related Information

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### Related Material

J0010Series J0010, New York State Supreme Court of Judicature (Utica) Declarations and Motions Before 1830, includes Utica declarations prior to 1830.

[^ Return to Table of Contents](#)

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## Other Finding Aids

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### Available at Repository

J0009-82, J0009-07: Container lists are available at the repository.

[^ Return to Table of Contents](#)

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## Use of Records

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### Access Restrictions

There are no restrictions regarding access to or use of this material.

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## Administrative Information

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### Custodial History

The Court of Appeals placed these records on deposit at the Historic Documents Collection, Queens College, from 1973-1982.

## Processing Information

Utica declarations dating from 1838-1840 were removed from Series J0013, New York State Supreme Court of Judicature (Utica) Writs of Arrest and Execution, and added to this series.

J0009-07: Records in this accretion were described as part of an unidentified records project in 2005, and accessioned in 2007.

[^ Return to Table of Contents](#)

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## Access Terms

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- Adjudicating
- Pleading
- Debtor and creditor
- Courts
- Judicial records
- Judgments
- New York (State)
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature