



New York State Archives

**New York State Supreme Court of Judicature Writs of
Certiorari J0147**

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Overview of the Records

Repository:	New York State Archives
Summary:	A writ of certiorari was obtained by a defendant to remove a case from a lower court into the Supreme Court of Judicature for trial and judgement, or for review after judgment in the lower court. These records include affidavits by which writs of certiorari were applied for; writs, which were Supreme Court orders to lower court judges to return a copy of the pleadings and proceedings in a case to the Supreme Court; and records of pleadings and proceedings.
Creator:	New York (State). Supreme Court of Judicature
Title:	Supreme Court of Judicature writs of certiorari
Quantity:	50.2 cubic feet
Inclusive Date:	1796-1847
Series:	J0147

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Arrangement

Chronological by year of filing, then alphabetical by name of original defendant (usually the plaintiff in error).

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Administrative History

A writ of certiorari was obtained by a defendant (or, in cases of replevin, by either a plaintiff or defendant) to remove a case from a lower court into the Supreme Court of Judicature for trial and judgement, or for review after judgment in the lower court. Any action in which debts or damages exceeded a set amount (100 pounds prior to 1830, thereafter \$250, or \$500 in New York City) was subject to removal. Any civil action to which the people or a city corporation was a party; any action involving title to real estate; and any action of replevin or for false

imprisonment, no matter what the damages claimed, could also be removed by obtaining a writ of certiorari.

Most of the cases brought into the Supreme Court of Judicature by this writ were civil actions first heard by a justice of the peace or by a Court of Common Pleas. A few were removed from the mayor's courts of incorporated cities. Other cases (no more than five percent of the total) were removed from the criminal courts of General Sessions of the Peace or Oyer and Terminer and General Gaol Delivery. These involved crimes such as larceny, assault, libel, perjury, murder, forgery, and so on. Many of the writs of certiorari were obtained by plaintiffs in error who needed a more complete record of proceedings in a lower court, beyond that found in the return to writ of error. There are also rare cases of appeals from decisions of the Canal Appraisers and of town commissioners of highways.

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Scope and Content Note

These records, which document actions taken by plaintiffs or defendants to remove a case from a lower court into the Supreme Court of Judicature, include affidavits by which writs of certiorari were applied for; the writs, which were Supreme Court orders to lower court judges to return a copy of the pleadings and proceedings in a case to the Supreme Court; and the records of pleadings and proceedings.

A typical writ file in this series contains the following documents: affidavit, writ of certiorari, and record of pleadings and proceedings. The writ of certiorari was applied for in an affidavit in which the applicant specified the type of civil action or criminal charge in the cause and described the proceedings thus, with particular attention to any errors alleged to have occurred. The affidavit bears a note that the writ was allowed by a Supreme Court justice or other court officer.

The time and place for return of the writ are specified, and the writ is witnessed by a Supreme Court justice or other officer of the court. On the dorso of the writ are the names of the parties and of the defendant's attorney, the filing date, and the signature of the justice or other officer who allowed the writ to be issued. Endorsed on or attached to the writ is a note or certificate by the clerk of the lower court or by the justice of the peace, stating that the return of execution of the writ appears in the attached record.

The record of pleadings and proceedings in a civil case generally includes the following documents: copy of the writ or bill of complaint by which the action was commenced; copies of the plaintiff's declaration and defendant's plea; occasionally a summary of the testimony; a copy of the judgment, if any, and execution of the same; and all other process, affidavits, and documents bearing on the cause.

The record of civil proceedings before a justice of the peace often takes the form of a narrative summary, since his was not a court of record. Returns from a justice of the peace or the clerk

of a court of common pleas sometimes include copies of the writ of summons to the defendant to appear, and of the summons to the constable or sheriff to empanel a jury. The record of a criminal case returned by the clerk of a Court of General Sessions of the Peace or a Court of Oyer and Terminer and General Gaol Delivery usually includes the following documents: copy of the bill of indictment; defendant's recognizance of bail; summary of testimony; and a copy of the minutes of the trial, including the verdict.

For cases which were removed to the Supreme Court of Judicature before a declaration was filed, or the defendant's plea was entered, or judgment was enrolled, the record sent up to the higher court lacks those proceedings. Prior to ca. 1820 the returns to writ of certiorari often contain briefs or arguments by the attorneys for the opposing parties and their stipulations of points not in dispute. The entire file is sometimes called an "error book."

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Related Information

Related Material

J1025 New York State Supreme Court of Judicature (Albany) Writs of Certiorari, Error, Habeas Corpus, and Mandamus, contains additional writs of centiorari.

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Other Finding Aids

Available at Repository

J0147-07: Container list is available at the repository.

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Use of Records

Access Restrictions

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

Alternate Formats Available

Items Online

High resolution images of selected original documents in this series are available in State Archives Digital Collections.

[Supreme Court of Judicature Writs of Certiorari, 1796-1847, in Digital Collections](#)

Administrative Information

Custodial History

J0147-82: The Court of Appeals placed these records on deposit at the Historical Documents Collection, Queens College, from 1973-1982.

J0147-07: This accretion resulted from a project by Archives staff in 2007 to integrate or accession estrayed or unidentified records.

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