

SAMPLE MANDATE OF COMMITMENT #3
(Immediate-View-and-Presence Contempt)

Mandate of Commitment¹

The Mandate of Commitment's CAPTION should read: *IN RE* THE CRIMINAL CONTEMPT OF COURT OF (name or description of "John Doe" contemnor)² COMMITTED IN THE IMMEDIATE-VIEW-AND-PRESENCE OF THE COURT (JUDICIARY LAW § 750), WHICH OBSTRUCTED AND IMMEDIATELY THREATENED TO OBSTRUCT THE PROCEEDINGS AND IMPAIRED THE COURT'S AUTHORITY TO PRESIDE OVER THE PROCEEDINGS ENTITLED: (Write in the name of the criminal or civil action or proceeding with the indictment or index number) [adapted from *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 500 (1911)].

The **HEADING** next to the caption box should state: MANDATE OF COMMITMENT FOR CRIMINAL CONTEMPT COMMITTED IN THE IMMEDIATE VIEW AND PRESENCE OF THE COURT.^{3,54}

The **first paragraph** of the Mandate should state: AT A (special, trial, etc.) TERM OF THE _____ COURT IN THE _____ JUDICIAL DEPARTMENT, HELD IN AND FOR THE COUNTY OF _____, ON THE _____ DAY OF (month), (year), AT THE COURTHOUSE AT (number and street), COUNTY OF _____, THERE WAS REGULARLY BEFORE THE COURT A (trial, hearing, motion, etc.) ACTUALLY IN PROGRESS IN THE ABOVE-CAPTIONED ACTION AND PROCEEDING.

The **second paragraph** of the Mandate should also state: WHEREUPON (name of contemnor) WHO WAS (Attorney for, Client, Witness, Spectator) ENGAGED IN THE FOLLOWING CONDUCT IN THE IMMEDIATE VIEW AND PRESENCE OF THE COURT: [*legibly write out what the contemnor did or refused to do in clear, everyday, non-conclusory, non-editorializing English. Be expansively truthful and err on the side of being overly detailed in how the contemnor's conduct obstructed or immediately threatened to obstruct the proceedings or impaired the authority of the court over the proceedings. Incorporate the stenographic minutes by reference.*] THE CONDUCT OF (name of contemnor), AS ABOVE SET FORTH, OBSTRUCTED, IMMEDIATELY THREATENED TO OBSTRUCT AND IMPAIRED THE COURT'S AUTHORITY TO PRESIDE OVER SAID (trial, hearing, motion, etc.) IN THE ABOVE-CAPTIONED ACTION AND PROCEEDING.

1 § 752 Requisites of Commitment for Criminal Contempt; Review of Certain Mandates. Where a person is committed for contempt, as prescribed in § 751 [up to \$1,000 fine and/or up to 30 days in jail], the particular circumstances of his offense must be set forth in the mandate of commitment. Such mandate, punishing a person summarily for a contempt committed in the immediate view and presence of the court, is reviewable by a proceeding under article 78 of the CPLR.

2 Some spectator contemnors refuse to identify themselves. This is not an obstacle since the court is punishing the contemnor, not his or her name. Like a "John Doe" indictment, the contemnor's name—as purely a police–corrections matter—can be substituted for "John Doe."

3 Neither statute nor case law requires the court to specify which subdivision of § 750 is involved. "It was proper for the magistrate to interpolate his version of the occurrences in conjunction with the stenographer's minutes." *Berkon v. Mahoney*, 268 A.D. 825 (2d Dep't 1944), *aff'd*, 294 N.Y. 828 (1945).