

**GIDANCE FOR LITIGANTS SEEKING TO APPEAL THE REFUSAL TO
SUSPEND A WARRANT BY A DISTRICT JUDGE WHEN NO CIRCUIT
JUDGE IS AVAILABLE AT THAT COURT.**

THE PROBLEM

Many litigants facing a possession order and the reality of losing their house may wait until the last minute before making an application to suspend and when it is refused they put in a notice of appeal. Until relatively recently there would have been a circuit judge available at each of the London county courts. Things are now very different. Many London county courts do not have a circuit judge or have a circuit judge for a limited period of time. This lack of a circuit judge applies to **West London, Woolwich, Edmonton, Wandsworth, Lambeth and Bow**. Courts such as **Brentford and Romford** only have a circuit judge for limited periods. On occasions the application has been so late the landlord or mortgagee has lost his bailiff appointment.

THE APPEAL COURT

In the event that a circuit judge is not available at a particular court, arrangements have been put in place to ensure litigants have access to a circuit judge for the purposes of appealing the refusal to suspend a warrant of possession. If you wish to appeal from the particular court where the District Judge has refused to suspend the warrant of possession the court staff will inform you to which court you should address your appeal. The court where the application to suspend was heard on occasions would take the notice of appeal from the appellant. **This practice will cease forthwith.**

THE SOLUTION

The appellant will be directed to the appropriate court where the appeal will be heard and *he must file the notice of appeal at that court and not at the court where the original application to suspend the warrant was heard.* This is entirely in accordance with the rules whereas the previous practice was not. CPR 52.3(2) (b) provides that an application for permission to appeal may be made “to the appeal court in an appeal notice.” CPR 52.1(3)(b) defines appeal court as “the court to which an appeal is made.” The reality of the situation is the onus is on the appellant to act promptly and make his application to suspend in sufficient time to enable an appeal to be lodged if necessary. Appellants should be aware that until the notice is received at the appeal court no attempt will be made to contact the bailiff to request that he does not enforce the warrant until an appeal has been heard.

H.H.J.D.C. Mitchell
Designated Civil Judge for London County Courts
8 July 2013.