

**CIVIL COURT, CITY OF NEW YORK**

**ADVISORY NOTICE**

Subject: Consumer Debt Cases:  
Statute of Limitations

Class: AN-11  
Category: GP-20  
Eff. Date: February 23, 2010

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On June 21, 2008 Advisory Notice AN-9, in reference to allocutions of stipulations in consumer debt cases was issued, attached. The AN discussed several issues in reference to CLPR Section 3015 and the pleadings in those cases and advised that before ordering a stipulation where the defendant is not represented by an attorney, the judge should insure that certain requirements were satisfied. Item 4, there was the following:


When the debt was incurred and if the action is time-barred. Ascertain that the defendant understands the concept of time limitations. If s/he does not understand or know how to proceed, refer him/her to the Resource Center.

The Fair Debt Collections Practices Act, 15 USC 1692, declares that due to the evidence of abusive, deceptive and unfair debt collection practices by many debt collectors... it is the purpose of this title to eliminate abusive debt collection practices by debt collectors... Following these principles, CCM-186 was issued on May 13, 2009, attached. This Memo directed the clerks to require an affidavit by the debt collector stating that after reasonable inquiry s/he has reason to believe that the statute of limitations has not expired before entering a default judgment following CPLR Section 3215. However, any cases where issue is joined go before the court and are not reviewed by the clerk. I am now amending the above cited direction and advising the following:

It is advised that prior to ordering a stipulation where the defendant is not represented by an attorney, the judge ascertain from the plaintiff or his/her attorney whether the debt is time-barred by the statute of limitations. If the plaintiff is not able to satisfy you as to the timeliness of the claim, the stipulation should not be ordered. If the defendant does not understand the concept of time limitations or does not know how to proceed, refer him/her to the Help Center.

Date

2/23/10

  
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Fern A. Fisher

Deputy Chief Administrative Judge  
New York City Courts