

CIVIL COURT OF THE CITY OF NEW YORK

DIRECTIVES & PROCEDURES

Subject: Entry of Judgment:
Account Stated

Class: DRP-158
Category: GP-20
Eff. Date: July 30, 2001

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BACKGROUND:

CPLR §3215 allows the entry of a judgment by the clerk when there has been no answer to the summons and complaint and the amount is for a sum certain or for a sum which can by computation be made certain. These words provide some guidance, but leave open the question of what exactly is a sum certain. While we have interpreted these words to mean that there had to be some prior agreement to the amount billed, other courts do not necessarily follow this requirement.

“Account stated” is one of the causes of action which has caused us great difficulty. At this time, after consultation with the Office of Court Administration, we are changing our policy and will enter default judgments when the cause of action is for an account stated.

POLICY:

A summons and complaint which qualifies for entry following CPLR § 3215, where the cause of action is for an account stated, may be entered by the clerk under the following conditions:

1. The affidavit of facts or verified complaint includes a statement indicating that an accounting was delivered or mailed to the creditor and the date of the delivery or mailing.
2. The affidavit of facts or verified complaint also includes a statement that the accounting has been retained and that no objection to it has been made.

In the past we have required that plaintiffs seeking entry of judgment pursuant to section 3215(a) waive any account stated cause of action when more than one cause of action is presented in the complaint. Following the above, the account stated cause of action in a multiple cause of action complaint need not be waived provided that the above statements in reference to it are provided in the affidavit of facts or verified complaint.

Hon. Fern Fisher-Brandveen

Administrative Judge