

**CIVIL COURT OF THE CITY OF NEW YORK**

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**Legal/Statutory Memorandum**

Subject: Costs and Disbursements in Civil Actions

Class: LSM-112

Category: GP-20

Eff. Date: Aug. 15, 1991

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LSM-108, issued January 8, 1991, disseminated the opinion of the Attorney General, Hon. Robert Abrams, about costs in Civil Actions and Summary Proceedings. Attached are two recently enacted laws, Chapter 261 of the Laws of 1991, effective January 2, 1992, and Chapter 591 of the Laws of 1991, effective immediately. Both of these laws amend section 1908 of the Civil Court Act, subsections (f) and (a) respectively.

For our purposes these laws override the Attorney General's Opinion, and allow the Judgment Clerks to enter a judgment including "reasonable expenses of serving process where service is made by other than the sheriff or marshal."

We will consider "reasonable expenses" to be \$25.00. A request for the entry of an amount for service greater than \$25.00 will have to be substantiated by receipts for the amount claimed. No receipts for an amount greater than \$75.00 will be accepted by the Clerk, and a claim for an amount larger than that will have to be placed before a Judge for inquest.

At this time we do not believe that the incorporation of CPLR section 8301 into CCA section 1908 (f) in January of 1992 will create any problems, but Judgment Clerks are requested to become familiar with that section before then so that we can deal with any problems ahead of time.

Additionally, we also wish to clarify the situation created when a plaintiff effects service on a corporation by service on the Secretary of State, pursuant to BCL sections 306 and 307, on the Commissioner of Insurance, pursuant to Insurance Law sections 1212 and 1213, and to any other public officer designated to received process. We view the change in law as permitting the entry of fees paid to those officers.

The Judgment Clerk is advised to tax any receipted amounts paid to these officers. For example, a plaintiff may request the entry of:

\$25.00 for service on the Secretary of State for serving

\$40.00 as the fee paid to the Secretary of State for servicing the papers on the defendant, for a total of \$65. The fee paid to the officer is to be counted as part of the "reasonable expenses," so that the \$75.00 limit is to include the fee paid to such officer. In the example above, no receipt is required for the \$25.00 service fee on the Secretary of State, but a receipt is required for the \$40.00 fee paid to the Secretary of State for service on the defendant.

At the present time there has been no change in terms of disbursements for military investigations. Therefore, no disbursements may be taxed for this expense.

Dated: August 15, 1991

Jacqueline W. Silbermann  
Administrative Judge