

CIVIL COURT OF THE CITY OF NEW YORK

CIVIL COURT DIRECTIVE

Sub: Severance or Discontinuance
Against Individuals Served

Class: DRP 161-2
Category: LT- 30
Eff. Date: October 1, 2002

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BACKGROUND:

On July 22, 2002, we issued DRP 160. This directive dealt with the procedure for severing individuals named on the petition but not served. We assumed that this would cover the confusion as to the procedure, but many questions have arisen as to how to sever or discontinue against person who has been served but against whom the petitioner does not wish to proceed. In order to clarify this issue, we are instituting the following procedure.

DIRECTIVE:

1. A voluntary discontinuance may be made by a party asserting a claim within twenty days of service or before a responsive pleading is served, whichever is earlier. CPLR § 3217.
2. After the responsive pleading has been served or twenty days from the date of service have passed, a motion on notice must be filed. The motion is to be noticed to the part to which the case is assigned. If no part has been assigned, the motion is to be made to Part Y, or to any other designated part, for further reassignment. Severance or discontinuance will be granted or denied at the discretion of the judge assigned to the Part.

Date

Hon. Fern A. Fisher
Administrative Judge