

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK MEMORANDUM

Subject: Additional Mailing following
CPLR § 3215

Class: CCM - 174
Category: GP - 20, 30 & 40
Eff. Date: February 5, 2008

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BACKGROUND

The practice in Civil Court when a plaintiff appears in person has been to not require an additional mailing prior to the entry of a judgment on default. This procedure was based on the fact that these cases always went to inquest and notice of the inquest date was procedurally mailed to the defendant which we believed was in conformity with CPLR § 3215 (f).

Recently this practice has been questioned by some of the judges who have pointed out that CPLR § 3215 (g) does not exclude parties appearing in person. We agree, and in order to establish uniform procedure citywide we are issuing the following directive.

DIRECTIVE

When a self represented person commences an action or when a self represented plaintiff requests that a matter be set down for inquest upon the defendant’s default in an action against a natural person based upon nonpayment of a contractual obligation, the clerk should advise the plaintiff that an additional notice must be given at least twenty days before the entry of a judgment on default by mailing a copy of the summons by first class mail to the defendant at his/her place of residence in an envelope bearing the legend “personal and confidential” that does not indicate on the outside of the envelope that the communication concerns an alleged debt. The notice may be mailed simultaneously with or after the service of the summons and complaint.

When a self represented person commences an action or when a self represented plaintiff requests that a matter be set down for inquest upon defendant’s default in an action against a domestic or authorized foreign corporation following BCL § 306 (b), the clerk should advise the plaintiff that an additional notice must be given at least twenty days before the entry of such judgment by mailing a copy of the summons by first class mail to the defendant corporation at its last known address. The notice may be mailed simultaneously with or after the service of the summons and complaint.

The Clerk shall not enter a judgment after inquest unless an additional notice has been given at least twenty days before such entry of judgment on the above mentioned actions.

When a self represented plaintiff requests an inquest prior to scheduling a hearing the clerk should ascertain whether the additional notice has been given.

If the additional notice was not served before the request for inquest is filed the clerk is to inform the plaintiff that:

- 1) The notice is to be mailed within five days of the date of the request for an inquest.
- 2) The inquest will be scheduled at least thirty days from the date of request.

If the additional notice has been given schedule the inquest to the next available date.

The Clerk shall further advise the plaintiff that he/she must bring the affidavit of service of the additional mailing to the court on the date assigned for the inquest.

Date 2/05/08

/s/

Jack Baer
Chief Clerk