

CIVIL COURT OF THE CITY OF NEW YORK

Civil Court Directive

Subject: Telephone Notification in Night L&T

Class: DRP-151

Category: LT-10

Eff. Date: April 10, 1998

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BACKGROUND:

Joint Administrative Order (JAO) Number 534, Appellate Divisions for the First and Second Judicial Departments, authorizes the Court to notify a City Marshal by telephone whenever an Order to Show Cause (OSC) stays an eviction at a premises in a county other than the county where the Marshal maintains an office ("out of county" cases). While not specifically authorized by JAO 534, the Court at times also notifies Marshals of Orders to Show Cause that stay evictions in the counties where their offices are located ("in county" cases), and the Marshals, in general, accept such notifications as sufficient to stay execution of warrants of eviction.

The Civil Court has recently started to remain open until 7:00 p.m. and Orders to Show Cause are being served at times when the Marshals' Offices are closed, making immediate telephone notification to City Marshals infeasible and creating a risk that a Marshal may not be notified of a Court-ordered stay in time to prevent the eviction.

We have recently met with representatives of the City Marshals and with the Department of Investigation and have worked out procedures to resolve the problems which the court's change of hours of operations has created.

DIRECTIVE:

The Chief Clerk is directed to provide a copy of these procedures for the Clerks to follow to implement this Directive.

Dated: April 10, 1998

Fern Fisher-Brandveen
Administrative Judge

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In accordance with the Directive of the Administrative Judge, following are the procedures to be performed by the Clerks regarding telephone notifications to city marshals in Landlord/Tenant cases.

PROCEDURES:

1. Whenever an Order to Show Cause (OSC) that stays the execution of a warrant of eviction is signed after 5:00 p.m., unless the Court orders otherwise, the Clerk during night hours will fax a copy of the signed face sheet of the OSC to the Marshal's Office.
2. A complete list of all the OSC's that have been faxed pursuant to paragraph 1 is to be compiled by the night crew and placed in a specified location next to a dedicated telephone line.
3. A Clerk is to be assigned the specific task of answering that telephone line between 8:00 and 9:00 a.m. A Marshal who is carrying out an eviction may call that number between 8:00 and 9:00 a.m. to determine whether an OSC has been signed in that case.
4. A Clerk is to be assigned the specific task of calling, at 9:00 a.m., all Marshals who were faxed OSC's during the previous day's night hours. The Clerk will verify that the faxes were received by the Marshals and will annotate each OSC with the name of the person in the Marshal's Office with whom s/he spoke.
5. Since Richmond County will not be open for business at 8:00 a.m. on the day following the Night Office hours, the Clerk in Richmond County will call or fax the information to the Clerk in New York County and provide a list of any OSC's which meet the criteria of paragraph 1. Any Marshal who is carrying out an eviction in Richmond County may call the Clerk in New York County to determine whether an OSC was signed on a given Richmond County case the previous night.
6. If a night OSC meeting the criteria of paragraph 1. is "in county," the Clerks will follow the procedures prescribed by paragraphs 1-5. In addition, the Respondent shall be informed that it is his/her responsibility to serve the Marshal with a copy of the signed OSC and that a person should remain in the premises for that purpose with a copy of the signed OSC until it is delivered in-person to the Marshal.

Dated: April 10, 1998

Jack Baer
Chief Clerk