

CIVIL COURT OF THE CITY OF NEW YORK

Civil Court Directive

Subject: Service of Process
Description of Individual Served

Class: DRP-119
Category: LT-20
Eff. Date: May 1, 1991

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BACKGROUND:

When a request for a final judgment based on a respondent's failure to answer is filed, a series of procedures is set in motion. One of these is the checking of the Notice of Petition and Petition by the Warrant Clerks.

One of the papers checked by the Clerk is the Affidavit of Service, and where service is effected by personal delivery the Clerk requires a description of the individual served. However, when personal service is effected by substituted service, or when a corporation is served, following Directive No. 258, no description has been required.

This procedure is incorrect and must be changed.

DIRECTIVE OF THE ADMINISTRATIVE JUDGE:

CPLR § 306(b) is applicable to service under RPAPL § 735. Whenever service under RPAPL § 735 is effected by delivering the Notice of Petition and Petition to an individual, a description of that individual must be provided.

Prior Directive No. 258 is hereby rescinded.

The Chief Clerk is directed to advise all concerned staff, and to revise any and all forms relating to this change.

This Directive is to be posted in the L&T Cashiers Office and made available to practitioners.

Dated: April 9, 1991

Jacqueline W. Silbermann
Administrative Judge

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CLERKS PROCEDURES, Landlord/Tenant Warrant Clerks

Following the directive of the Administrative Judge, the L&T Warrant Clerks are advised:

1. To reject any requests for final judgments based upon respondent's failure to answer where service of the Notice of Petition and Petition was effected by delivery to an individual but no description of that individual is included in the Affidavit of Service.

2. This will apply to any Petition and Notice of Petition served on or after May 1, 1991.

3. The Defects Checklist - Warrants, form CIV-LT-35, is to be revised as soon as possible to include a checkbox for this rejection, but existing stocks of this form are to be used until exhausted to reduce costs.

4. Until such time as the form mentioned, CIV-LT-35, is revised the Clerk is to enter the rejection in writing on the form. The rejected request should be marked:

"Affidavit of Service not complete;
Description of Individual Served."

Dated: April 9, 1991

Jack Baer
Chief Clerk