

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK'S MEMORANDUM

Subject: Order of Seizure Calendar
(Replevin Calendar)

Class: CCM -117-A
Category: GP-60
Eff. Date: August 15, 2016

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BACKGROUND

CCM- 117 clarified Directive No. 288, with regard to procedures for the Order of Seizure calendar, where the alleged wrongfully held chattel is a utility meter. Both Directive No. 288 and CCM-117 were issued prior to the amendment of NYCCA § 400. Current statute requires the initial filing of a Summons and Complaint to commence an action; therefore, CCM-117 is rescinded.

For this reason, it is necessary to amend the procedures previously established with regard to the filing of an action for Replevin. The amended procedure is as follows:

PROCEDURE

1. Utility companies and other alleged owners of utility meters must file a Summons and Complaint in order to commence a replevin action in NYC Civil Court.
2. Following the guidance of the Public Service Law, and our ongoing adherence to the “Assurance of Discontinuance Pursuant to Executive Law Section 63, Subdivision 15,” issued by the NYS Attorney General on February 24, 1983, as supplemented by letter from the Attorney General to Con Edison dated May 26, 2015, the plaintiff may serve a Notice of Application for an order of seizure when it cannot obtain access to customers’ meters. In instances where a Notice of Application has been served, the defendant may come to court to schedule a voluntary meeting with the plaintiff utility company. This voluntary meeting is described herein as a “Voluntary Informal Conference” (VIC). This meeting is not mandatory, and no defendant is obligated to participate in such meeting.
3. If a defendant has been served a Notice of Application by the plaintiff/alleged meter owner and based on the information provided in the Notice of Application, wishes to schedule a VIC with plaintiff/alleged owner, the defendant can request that the clerk schedule the VIC. When a defendant appears at court after service of a Notice of Application, and requests that the clerk schedule a VIC, the clerk must:
 - schedule a date for the VIC to **Part 38-VIC**, selecting “preliminary conference” as the purpose in the UCMS-LC database.
 - generate the CIV-GP-75 (Scheduled Voluntary Informal Conference Regarding an Order of Seizure)
 - give the defendant a copy of the CIV—GP-75 for his/her information.
4. If a defendant has been served a Notice of Application, and based on the information provided in the Notice of Application, informs the clerk that they do not wish to participate in a VIC, and

requests a hearing by the Court, the designated clerk must accept the defendant's answer and:

- generate the CIV-GP-58e (SRL written answer and verification) for defendant to complete
 - schedule the matter for hearing to **Part 11R** in the database
 - inform defendant of the hearing date, and give the defendant a copy of the CIV-GP-58e for his/her information.
5. The clerk shall notify the plaintiff of the date and time of the VIC by giving a copy of the CIV-GP-75, or notify the plaintiff of the hearing by giving a copy of the CIV-GP-58e to the plaintiff in a manner arranged for locally in each county.
6. A clerk will be assigned to the Part designated for each VIC calendar, and will:
- Make an announcement prior to the start of the VIC calendar informing defendants that:
 - representatives of the utility company are present and it is the defendant's option to meet with the representatives to discuss the alleged wrongfully held meter
 - the VIC will be between the defendant and the utility company representatives
 - the voluntary informal conference is not mandatory, and that if the defendant wants to have a hearing by the Court, he/she should inform the clerk.
 - Where a defendant appears for a scheduled VIC and requests a hearing by the Court, the defendant must be allowed to file an answer. The clerk must direct the defendant to the General Clerk's Office where he/she may submit an answer. The service window clerk will provide the defendant with a CIV-GP-58e, take his/her answer, and a hearing is to be scheduled as expeditiously as possible to the Part 11R calendar.
 - The clerk shall annotate the VIC calendar with the appropriate dispositions. Where a defendant does not appear for a scheduled VIC, the appropriate disposition is "Removed from Calendar."

7/20/16

Date

Carol Alt

Carol Alt
Chief Clerk