

CIVIL COURT OF THE CITY OF NEW YORK

Legal/Statutory Memorandum

Subject: Costs in Civil Actions

Class: LSM-143

Category: GP-20

Eff. Date: June 2, 1997

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Chapter 308 of the Laws of 1988 amended the Civil Court Act, Section 1901, by repealing the then current section and replacing it with a new one. At that time old Directives 779 and 781 and later, LSM 116 were written in an attempt to provide a clear procedure under that amendment. Since some questions persist, I hereby supersede those Directives, and provide the following rules.

General:

1. Costs are to be awarded in any case in which a judgment is to be entered unless a judge orders differently, or unless otherwise provided by statute.
2. Costs are awarded to the prevailing party, be that party styled a plaintiff or a defendant and regardless of whether that party appears in person or is represented by an attorney.
3. Costs are awardable in cases tried by arbitrators following 22 NYCRR 28 as well as in cases tried before Civil Court Judges.
4. CCA § 1901 Costs are based on the level of the monetary award and the stage of litigation at the time that the judgment is entered. For the purpose of determining the stage of litigation, we will consider the issuance of a calendar number as the equivalent of the filing of a Notice of Trial.
5. A party to whom costs are awarded is also to be allowed disbursements. A party to whom costs are not allowed is not eligible for disbursements unless so ordered by the Court.

Over the last few years judgment clerks and litigants have been confused about the appropriate amount of costs to be awarded in several types of situations. In order to clear up that confusion, we provide the following examples for determining the correct amount of costs to be charged in a given judgment.

Example 1: Pro se plaintiff, no answer by defendant. Since our procedure requires an inquest in the case of a failure to answer and a calendar number must be issued, costs are to be figured by adding Stage 1, Stage 2, and Stage 3.

Example 2: A pro se litigant prevails after a hearing. Since a calendar number is issued, costs are to be figured by adding Stage 1, Stage 2, and Stage 3.

Example 3: The prevailing defendant had no counterclaim, the award dismissed the plaintiff's action for money but does not award the defendant any money (award is \$0.00), and the defendant requests entry of a judgment and costs. Following the opinion of the Chief Counsel for the Office of Court Administration, attached, the costs are to be figured by using the amount of the plaintiffs claim as the yardstick for determining the level.

Example 4: After the case is calendared it is marked “Inquest Clerk.” Costs are to be figured following stages 1 & 2.

Example 5: Both plaintiff and defendant receive money judgments. Costs are awarded to both sides following the proper stage and level.

Example 6: More than one party prevails, but only one judgment is ordered. Costs are to be figured as if they were awarded to a single party (CCA § 1905). However, if two or more judgments are entered, each prevailing party is entitled to his or her costs in his or her judgment.

Dated: June 2, 1997

Hon. Fern Fisher-Brandveen
Administrative Judge