

CIVIL COURT OF THE CITY OF NEW YORK

DIRECTIVES AND PROCEDURES

Subject: Subpoenaed Records/Exhibits Procedure

Class: DRP-185

Category: GP 10, LT 10, SC 10

Eff. Date: March 13, 2009

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BACKGROUND

Our Record Rooms are filled with subpoenaed records for cases that have been disposed. In addition exhibits not returned to the introducing party by the courtroom staff are stored in the Record Room, court rooms and, Judge’s chambers. The storage of these documents year after year with no disposal procedure is overburdening our storage areas. The Records Retention Manual, Sections 70060 and 70080 govern the return and disposal procedure for exhibits and subpoenaed documents, however, the manual is being revised to correct some language that is unclear. After consultation with Rick Hogan, Chief Management Analyst, Office of Records, and following his direction, the following procedure is instituted.

DIRECTIVE

All subpoenaed records are to be delivered to the Record Room. The record room shall maintain a record of every subpoenaed record received. Viewing and/or copying subpoenaed records requires permission from a judge (CPLR Sections 2305 (c) and 2306 (b)). A CIV-GP-86 Request and Order for the Examination of Subpoenaed Records form, must be signed by a judge authorizing the viewing of such records prior to examination. Any judge may authorize the examination and/or copying of subpoenaed records, however, in no event shall the records be allowed to be removed from the court building. In the case of digitally produced records, for example, records produced on a CD, the request to the judge should be for the court to copy the CD for the viewing party. Upon being directed to do so, the clerk shall make a copy of the CD for pick-up by the viewing party at the Court’s expense. Please see revised CIV-GP-86 (11/08) attached.

Procedure for Return of Exhibits/Subpoenaed Records upon final disposition in the courtroom:

Unless the judge orders the exhibit(s)/subpoenaed records held, the judge or court attorney shall notify any party present in the courtroom who delivered any exhibit(s)/subpoenaed records to the court, that he/she must remove them from the courtroom at the conclusion of trial. The person should be further advised that the exhibits/subpoenaed records can be destroyed if he/she fails to remove them from the courtroom.

After this notice is given, any exhibits/subpoenaed records not returned in the courtroom shall be disposed of by the courtroom staff as follows:

- Original documentary(paper) records shall be returned to the person/entity who delivered them to the court by regular mail at the court’s expense by the courtroom staff;
- Copies of documents, including certified copies, and non-documentary exhibit(s)/subpoenaed records that is/are not claimed shall be discarded by the courtroom staff.

Upon the determination of a motion/OSC for a GAL, unless the judge orders the exhibit(s) held, the judge or court attorney shall promptly return any exhibit(s)/subpoenaed records, introduced into evidence to the party/person/entity who delivered it/them to the court. Any exhibits that are not returned in the courtroom shall be returned to the party who introduced it by regular mail at the court's expense.

Exhibit(s)/subpoenaed record(s) ordered to be retained by the court

If the judge orders an exhibit(s)/subpoenaed record(s) to be retained by the court they shall be immediately forwarded to the Record Room for storage. A log shall be maintained of all exhibit(s)/subpoenaed record(s) stored in the record room including: the name of the judge who ordered the storage, the index number of the action, and the time frame for storage. At the conclusion of the storage period the record room shall notify the judge that the storage order has expired. If the order is continued the continuance date shall be noted in the log. If the order is not continued the exhibit(s)/subpoenaed records shall be disposed of as per the following procedure.

Procedure for Return/Disposal of Exhibit(s)/Subpoenaed Records from the Record Room:

Upon final disposition of the action or termination of the period of time referred to in the order to hold the records, the record room staff shall return original documentary (paper) records to the person/entity who delivered them to the court by regular mail at the court's expense.

Where the records are copies of documents, including certified copies, the record room is to send a written notice to the person who delivered the exhibit(s)/subpoenaed record(s) that the documents(s) is/are ready to be picked up using the CIV-GP-150 Notice of Return or Destruction of Subpoenaed Record/Exhibit form. The clerk shall maintain a record indicating: to whom the notice was sent; the type of record(s)/document(s); and the date notice is mailed.

If the record is not picked up within thirty five days of the notice outlined above, the record room staff shall destroy the records. Copies of Medical Records or records containing Social Security identification numbers or other personal information shall be shredded. The date the records are destroyed should be recorded on the completed CIV-GP-150 Notice of Return or Destruction of Subpoenaed Record form. The completed CIV-GP-150 shall be maintained in the case file.

Where an action is marked "off calendar" the above procedure is to be followed. If any party requests that the subpoenaed records be held, he/she must make the request to the Judge, who may order those records held for a specified period of time.

March 13, 2009

Dated

/s/

Fern Fisher
Administrative Judge