

CIVIL COURT OF THE CITY OF NEW YORK

Legal/Statutory Memorandum

Subject: Re-service of 72 hour Notices

Class: LSM-129

Category: LT - 40

Eff. Date: Jan. 9, 1995

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Several city marshals have approached us lately and spoken to us about a problem which is created when a judge orders the re-service of a 72-hour notice after an order to show cause or motion has been decided.

Some of the judges, when ordering re-service of the 72-hour Notice, are unclear in their intention, and use the words “serve,” or “give,” etc. This creates a conflict between some attorneys and some marshals in which one side says that RPAPL § 735 service methods should be followed and another side which says that a regular mailing is sufficient.

I request that from now on, when ordering re-service of a 72-hour Notice, the judge be clear as to what s/he means. If the intention of the judge is that RPAPL § 735 be followed, the judge should say “A 72-hr Notice is to be re-served following RPAPL § 735.” Unless these or substantially similar words are used, the marshals and attorneys are to understand that a mailing by first class mail of the 72-hour Notice in accordance with the manual will be sufficient.

Again, you may require what you consider appropriate but be clear about it.

Dated: January 9, 1995

Jacqueline W. Silbermann
Administrative Judge