

## CIVIL COURT OF THE CITY OF NEW YORK

### **ADVISORY NOTICE**

**Subject:** Allocations of Stipulations in Landlord and Tenant Cases

**Class:** AN- 1

**Category:** LT-10

**Amended:** 4/06/07

### **BACKGROUND**

Since appellate courts have upheld vacating stipulations when pro se litigants failed to understand the consequences of stipulations or when stipulations were overreaching ( see Seamen Assoc. v. Jaiman, NYLJ, 11/5/96, p. 25. c. 2 (At1), Table Run Estate Inc. v. Perez, NYLJ, 2/23/94, p. 21, c. 2 (AT1), 221 Sherman Assoc. v. Fulgenico, NYLJ, 10/29/96, p. 26, c. 1 (AT1), and since in some instances parties have not been seen by the judge and only by the court attorney, the following is strongly advised:

No stipulation in which any party is pro se should be approved by the Court unless the Judge is convinced that a pro se litigant understands the terms of the stipulation and an allocation is conducted on the record. While no specific format for allocation is mandated, the minimum that should be ascertained by the judge is the following:

1. The identity of the parties.
2. The authority of the signatory to the stipulation, if the named party is not present.
3. If the pro se litigant understands and agrees to the terms of the stipulations.
4. If the litigant understands the effect of non-compliance of the stipulation by either side.
5. Whether the litigant understands that he or she may try the case if an acceptable stipulation cannot be negotiated.
6. Whether the litigant's claims and/or defenses are discerned and understood.
7. If the litigant understands all available options in light of their claims and defenses.
8. If the litigant indicates that he/she intends to apply for public assistance benefits that an appropriate rent breakdown is included in the stipulation.
9. If the litigant understands the implication of a non-satisfied judgment and the legal requirement that the petitioner provide a satisfaction upon payment.

The judge should also ascertain whether a pro se litigant's claims or defenses are adequately addressed prior to so ordering any stipulation. The judge is not precluded from using a court attorney to assist in determining litigant's claims and defenses and their understanding of all available options. Such assistance from the court attorney should be in addition to an allocation by the judge. The Judge should ascertain if a court attorney conferenced the case and if the conference was satisfactory and helpful to both sides in reaching an agreement.

**Fern A. Fisher**

Administrative Judge, Civil Court

April 6, 2007