

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK'S MEMORANDUM

Subject: Default Judgments and
Time Barred Debt in Consumer Credit Actions

Class: CCM- 186A
Category: GP-20
Eff. Date: June 1, 2010

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BACKGROUND

In May of 2009 we instituted a policy (CCM-186) where, in consumer credit transaction cases, a request for a default judgment entered by the Clerk following CPLR §3215, must be accompanied by an affidavit by the debt collector (who may be the plaintiff or plaintiff's attorney). CCM-186 further directed that the affidavit shall state that after reasonable inquiry, the plaintiff/plaintiff's attorney has reason to believe that the statute of limitations has not expired. The statute of limitations in New York for consumer credit transaction cases is six years (CPLR § 213[2]), however, where a nonresident sues on a cause of action accruing outside of New York, CPLR § 202 (the "borrowing statute") requires that the cause of action be timely under both New York and the jurisdiction where the cause of action accrued.

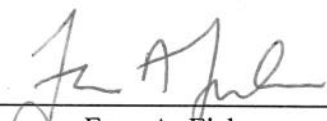
A recent New York Court of Appeals decision, Portfolio Recovery v. King, 2010 N.Y. Slip Op. 03470 (attached), quoting Global Fin. Corp. v. Triarc Corp., 93 NY2d 525, 528, found that "When a nonresident sues on a cause of action accruing outside of New York, CPLR 202 requires the cause of action to be timely under the limitation periods of both New York and the jurisdiction where the cause of action accrued."

Based on the aforementioned we are amending CCM-186 and now direct the following:


DIRECTIVE

A request for a default judgment entered by the Clerk following CPLR § 3215, must be accompanied by an affidavit by the debt collector (who may be the plaintiff or plaintiff's attorney) stating: where the cause of action accrued; if the cause of action accrued outside of New York, the statute of limitations for that state; and a statement that after reasonable inquiry, the debt collector has reason to believe that the applicable statute(s) of limitations has/have not expired.

Date 6/01/2010



Fern A. Fisher
Deputy Chief Administrative Judge
New York City Courts



Jack Baer
Chief Clerk