

Checklist for Motions for Default Judgment – Hon. Ellen Tobin, A.J.S.C.

Moving party must ensure all required information is included in a Motion for Default Judgment

Name of the Case: _____

Index Number: _____

Requirements:

1. Is the claim over \$15,000?
2. Proof of service, summons and complaint OR CPLR 305(b) summons with notice
3. Proof of claim – *i.e.*, copy of the agreement
4. Proof of default – *i.e.*, Affidavit of Service and/or Military Affidavit
5. Date of submission of motion
6. Date the summons and complaint were filed (attach copies to motion)
7. Date that proof of service was filed
8. Military affidavit necessary?
9. Where Motion includes an application for attorneys' fees:
 - Affidavit attached?
 - Amount requested?
 - Amount billed?
10. Type of Defendant:
 - Natural Person
 - Domestic Corporation
 - Foreign Corporation (Authorized/Unauthorized)
 - Domestic LLC
 - Foreign LLC
 - Other
11. Affidavit of Service attached?
12. Service pursuant to:
 - 308(1) – in person; description, sex, hair color, age, weight
 - 308(2) – by a person of suitable age and discretion (description, as above) and mailed within 20 days
 - 308(4) – nailed (at least 3 attempts, varying times) and mailed (within 20 days)
 - 311(a)(1) – On a domestic or foreign corp. (officer, director, managing or general agent, cashier, assistant cashier or other agent authorized by appointment or law to receive service of process)
 - 311-a – Domestic or foreign LLC
 - BCL 306 – On a domestic or authorized foreign corp. (via the Secretary of State)

- BCL 307 – On an unauthorized foreign corp. (via the Secretary of State)
- Has proof of service been filed with the Clerk's office?

13. CPLR 3215 - Additional notice required if Defendant is:

- A natural person in action based on nonpayment of contractual obligation (CPLR 3215(g)(3))(copy of summons by mail)
- Domestic or authorized foreign corp. served by BCL § 306 (CPLR 3215 (g)(4))(copy of summons AND a notice of service per BCL § 306)

14. Is the motion for default judgment brought within one year of when the answer was due?

15. Documents to attach to the motion (as applicable):

- Affidavit of service
- Affidavit of merit by claimant
- Affidavit of default by attorney
- Affidavit of additional CPLR 3215(g) notice
- Affidavit of defendant not in military
- Consumer credit transactions require additional proof