

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

ADM 2020-0520

The Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, pursuant to the authority vested in it,

DOES HEREBY, effective June 8, 2020, amend Part 691 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York as follows (additions in text are indicated by underlining and deletions by ~~strikethrough~~):

Part 691. Conduct of Attorneys

§ 691.20. Claims or Actions for Personal Injury, Property Damage, Wrongful Death, Loss of Services Resulting from Personal Injuries, Due to Negligence or Any Type of Malpractice, and Claims in Connection With Condemnation or Change of Grade Proceedings

(a) Statements as to Retainers; Blank Retainers.

(1) Every attorney who, in connection with any action or claim for damages for personal injury or for property damages, or for death or loss of services resulting from personal injuries, due to negligence or any type of malpractice, or in connection with any claim in condemnation or change of grade proceedings, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such action, claim or proceeding, whereby ~~his~~ the attorney's compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within 30 days from the date of any such retainer or agreement of compensation, sign personally and file with the Office of Court Administration of the State of New York a written statement of such retainer or agreement of compensation, containing the information hereinafter set forth. ~~Such statement may be filed personally by the attorney or his representative at the main office of the Office of court Administration in the City of New York, and upon such filing he shall receive a date-stamped receipt containing the code number assigned to the original so filed. Such statement may also be filed by ordinary mail only addressed to:~~ Such statement must be filed by electronic transmission in a manner directed by the chief administrative judge and approved by the presiding justice of the Appellate Division.

~~Office of Court Administration—Statements~~

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~~Post Office Box No. 2016~~

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~~New York, NY 10008~~

~~Statements filed by mail must be accompanied by a self-addressed stamped postal card, containing the words "Retainer Statement" the date of the retainer and the name of the client. The Office of Court Administration will date-stamp the postal card, make notation thereon of the code number assigned to the retainer statement and return such card to the attorney as a receipt for the filing of such statement. It shall be the duty of the attorney to make due inquiry if such receipt is not returned to him within 10 days after his mailing of the retainer statement to the Office of Court Administration.~~

(2) A statement of retainer must be filed in connection with each action claim or proceeding for which the attorney has been retained. Such statement shall ~~be on one side of paper 8 1/2 inches by 11 inches and be in the following form and~~ contain the following information:

Retainer Statement

For office Use:

TO THE OFFICE OF COURT ADMINISTRATION OF THE STATE OF NEW YORK

1. Date of agreement as to retainer
2. Terms of compensation
3. Name and home address of client
4. If engaged by an attorney, name and office address of retaining attorney
5. If claim for personal injuries, wrongful death or property damage, date and place of occurrence
6. If a Condemnation or change of grade proceeding:
 - (a) Title and description
 - (b) Date proceeding was commenced
 - (c) Number or other designation of the parcels affected
7. Name, address, occupation and relationship of person referring the client

Dated:, N.Y. day of, 20...

Yours, etc.

Signature of Attorney

Attorney

Office and P.O. Address

....

Dist.

....

Dept.

....

County

(Print or Type)

NOTE: CPLR 2104 AND 3217 REQUIRE THAT THE ATTORNEY FOR THE DEFENDANT FILE A STIPULATION OR STATEMENT OF DISCONTINUANCE WITH THE COURT UPON DISCONTINUANCE OF AN ACTION.

(3) An attorney retained by another attorney, on a contingent fee basis, as trial or appeal counsel or to assist in the preparation, investigation, adjustment or settlement of any such action, claim or proceeding shall, within 15 days from the date of such retainer, sign personally and file electronically with the Office of Court Administration a written statement of such retainer in the manner and form as above set forth, which statement shall also contain particulars as to the fee arrangement, the type of services to be rendered in the matter, the code number assigned to the statement of retainer filed by the retaining attorney and the date when said statement of retainer was filed.

(4) No attorney shall accept or act under any written retainer or agreement of compensation in which the name of the attorney was left blank at the time of its execution by the client.

(b) Closing statement; statement where no recovery. (1) A closing statement shall be filed in connection with every claim, action or proceeding in which a retainer statement is required, as follows: Every attorney upon receiving, retaining or sharing any sum in connection with a claim, action or proceeding subject to this section shall, within 15 days after such receipt, retention or sharing, sign personally ~~and file~~ with the Office of Court Administration by electronic transmission in a manner directed by the chief administrative judge and approved by the presiding justice of the Appellate Division and serve upon the client a closing statement as hereinafter provided. Where there has been a disposition of any claim, action or proceeding, or a retainer agreement is terminated, without recovery, a closing statement showing such fact shall be signed personally by the attorney and filed electronically with the Office of Court Administration within 30 days after such disposition or termination. ~~Such statement may be filed personally by the attorney or his representative at the main office of the Office of Court Administration in the City of New York and upon such filing he shall receive a date stamped receipt. Such statement may also be filed by ordinary mail only addressed to:~~

~~Office of Court Administration—Statements~~

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~~Post Office Box No. 2016~~

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~~New York, NY 10008~~

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~~Statements filed by mail must be accompanied by a self-addressed stamped postal card containing the words “Closing Statement” the date the matter was completed, and the name of the client. The Office of Court Administration will date stamp the postal card, make notation thereon of the code number assigned to the closing statement and return such card to the attorney as a receipt for the filing of such statement. It shall be the duty of the attorney to make~~

~~due inquiry if such receipt is not returned to him within 10 days after his mailing of the closing statement to the Office of Court Administration.~~

(2) Each closing statement shall be on one side of paper 8-1/2 inches by 11 inches and be in the following form and contain the following information:

Closing Statement

TO THE OFFICE OF COURT ADMINISTRATION For office use:
OF THE STATE OF NEW YORK

1. Code number appearing on Attorney's receipt for filing of retainer statement _____
2. Name and present address of client _____
3. Plaintiff(s) _____
4. Defendant(s) _____
- 5.(a) If an action was commenced, state the date: _____, 20____, _____ Court, _____ County.
- 5.(b) Was the action disposed of in open court? _____
If not, and a request for judicial intervention was filed, state the date the stipulation or statement of discontinuance was filed with the clerk of the part to which the action was assigned. _____
If not, and an index number was assigned but no request for judicial intervention was filed, state the date the stipulation or statement of discontinuance was filed with the County Clerk. _____
6. Check items applicable:
Settled() ; Claim abandoned by client() ; Judgment()
Date of payment by carrier or defendant _____ day of _____, 20____
Date of payment to client _____ day of _____, 20____
7. Gross amount of recovery (if judgment entered, include any interest, costs and disbursements allowed) \$ _____ (of which \$ _____ was taxable costs and disbursements).
8. Name and address of insurance carrier or person paying judgment or claim and carrier's file number, if any _____
9. Net amounts: to client \$ _____; compensation to undersigned \$ _____; names, addresses and amounts paid to attorneys participating in the contingent compensation _____
10. Compensation fixed by:
retainer agreement () ; under schedule () ; or by court () .
11. If compensation fixed by court: Name of Judge _____ Court _____; Index No. _____; Date of Order _____
12. Itemized statement of payments made for hospital, medical care or treatment, liens, assignments, claims and expenses on behalf of the client which have been charged against the client's share of the recovery, together with the name, address, amount and reasons for each payment _____
13. Itemized statement of the amounts of expenses and disbursements paid or agreed to be paid to others for expert testimony, investigative or other services properly chargeable to the recovery of damages together with the

name, address and reason for each payment _____

14. Date on which a copy of this closing statement has been forwarded to the client _____, 20____

NOTE: CPLR 2104 AND 3217 REQUIRE THAT THE ATTORNEY FOR THE DEFENDANT FILE A

STIPULATION OR STATEMENT OF DISCONTINUANCE WITH THE COURT UPON DISCONTINUANCE OF AN ACTION.

Dated: _____, NY, _____ day of _____, 20_____

Yours, etc.

Signature of Attorney

Print _____

Attorney

or _____

Office and P.O. Address

Type _____ Dist. _____ Dept. _____ County _____

(If space provided is insufficient, riders on sheets 8-1/2 inches by 11 inches and signed by the attorney may be attached.)

(3) A joint closing statement may be served and filed in the event that more than one attorney receives, retains or shares in the contingent compensation in any claim, action or proceeding, in which event the statement shall be signed by each such attorney.

(c) Confidential nature of statements.

(1) All statements of retainer or closing statements filed shall be deemed to be confidential and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the presiding justice of the Appellate Division. (See subdivision (g) of this section.)

~~(2) The Office of Court Administration of the State of New York shall reproduce in an alternative format, as that term is defined in section 104.1(c) of this Title, all statements filed pursuant to this section by a means that shall accurately reproduce the original statements in all details thereof, and shall thereafter destroy the originals so reproduced. Such a reproduction in an alternative format shall be deemed to be an original record for all purposes, and an enlargement or facsimile thereof may be introduced in evidence in all courts and administrative agencies and in any action, hearing or proceeding in place and stead of the original statement so reproduced, with the same force and effect as though the original document were presented. When a retainer or closing statement has been filed electronically pursuant to this section, the official record shall be the electronic recording of the document stored by the Office of Court Administration.~~

DATED: Brooklyn, New York
May 20, 2020

A handwritten signature in black ink, appearing to read 'A D R I', with a long horizontal stroke extending to the right.

ALAN D. SCHEINKMAN
Presiding Justice