ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby promulgate, effective October 1, 2014, the following court rules relating to the proof of default judgment in consumer credit matters (as further set forth in Exh. A appended hereto)

§ 202.27-a.	Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the Supreme Court and the County Court);
§ 202.27-b	Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the Supreme Court and the County Court);
§ 208.6(h)	Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the New York City Civil Court);
§ 208.14-a.	Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the New York City Civil Court);
§ 210.14-a	Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the City Courts Outside the City of New York);
§ 210.14-b	Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the City Courts Outside the City of New York);
§ 212.14-a	Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the District Courts);
§ 212.14-b	Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the District Courts);
§ 202.6	Request for judicial intervention (Uniform Civil Rules for the Supreme Court and the County Court).

In addition, I hereby promulgate, also effective October 1, 2014, the following forms for use in implementing these rules (Exh. B):

1. Affidavit of Facts by Original Creditor (Original Creditor Actions);
2. Affidavit of Facts and Sale of Account by Original Creditor (Debt Buyer Actions);
3. Affidavit of Purchase and Sale of Account by Debt Seller (Debt Buyer Actions);
4. Affidavit of Facts and Purchase of Account by Debt Buyer Plaintiff (Debt Buyer Actions); and
5. Affirmation of Non-Expiration of Statute of Limitations (All Actions).

Chief Administrative Judge of the Courts

Dated: September 15, 2014

AO/185/14

§ 202.27-a. Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the Supreme Court and the County Court)

§ 208.14-a. Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the New York City Civil Court)

§ 210.14-a Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the City Courts Outside the City of New York)

§ 212.14-a Proof of Default Judgment in Consumer Credit Matters (Uniform Civil Rules for the District Courts)

(a) Definitions.

(1) For purposes of this section a consumer credit transaction means a revolving or open-end credit transaction wherein credit is extended by a financial institution, which is in the business of extending credit, to an individual primarily for personal, family or household purposes, the terms of which include periodic payment provisions, late charges and interest accrual. A consumer credit transaction does not include debt incurred in connection with, among others, medical services, student loans, auto loans or retail installment contracts.

(2) Original creditor means the financial institution that owned the consumer credit account at the time the account was charged off, even if that financial institution did not originate the account. Charged-off consumer debt means a consumer debt that has been removed from an original creditor's books as an asset and treated as a loss or expense.

(3) Debt buyer means a person or entity that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether it collects the debt itself, hires a third party for collection, or hires an attorney for collection litigation.

(4) Credit agreement means a copy of a contract or other document governing the account provided to the defendant evidencing the defendant's agreement to the debt, the amount due on the account, the name of the original creditor, the account number, and the name and address of the defendant. The charge-off statement or the monthly statement recording the most recent purchase transaction, payment or balance transfer shall be deemed sufficient evidence of a credit agreement.

(b) Applicability. Together with any other affidavits required under New York law, the following affidavits shall be required as part of a default judgment application arising from a consumer credit transaction where such application is made to the clerk under CPLR 3215(a).

(1) In original creditor actions, the affidavit set forth in subsection (c), effective October 1, 2014.

(2) In debt buyer actions involving debt purchased from an original creditor on or after October 1, 2014, the affidavits set forth in subsection (d).

(3) Except as set forth in paragraph four of this subsection, the affidavits set forth in subsection (d) shall not be required in debt buyer actions involving debt purchased from an original creditor before October 1, 2014. The plaintiff shall be required to affirm in its affidavit of facts that the debt was purchased from the original creditor before October 1, 2014 and attach proof of that fact.

(4) Effective July 1, 2015, the affidavits set forth in subsection (d) shall be required in all debt buyer actions notwithstanding that the debt was purchased from an original creditor before October 1, 2014.

(5) In all original creditor and debt buyer actions, the affidavit of non-expiration of statute of limitations set forth in subsection (e), effective October 1, 2014.

(c) Where the plaintiff is the original creditor, the plaintiff must submit the AFFIDAVIT OF FACTS BY ORIGINAL CREDITOR.

(d) Where the plaintiff is a debt buyer, the plaintiff must submit the AFFIDAVIT OF FACTS AND PURCHASE OF ACCOUNT BY DEBT BUYER PLAINTIFF, the AFFIDAVIT OF FACTS AND SALE OF ACCOUNT BY ORIGINAL CREDITOR and, if applicable, the AFFIDAVIT OF PURCHASE AND SALE OF ACCOUNT BY DEBT SELLER for each debt seller who owned the debt prior to the plaintiff.

(e) In all applications for a default judgment arising from a consumer credit transaction, the plaintiff must submit the AFFIRMATION OF NON-EXPIRATION OF STATUTE OF LIMITATIONS executed by counsel.

(f) The affidavits required by this section may not be combined. Affidavits may be augmented to provide explanatory details, and supplemental affidavits may be filed for the same purpose.

(g) The affidavits required by this section shall be supported by exhibits, including a copy of the credit agreement as defined in this section, the bill of sale or written assignment of the account where applicable, and relevant business records of the Original Creditor that set forth the name of the defendant; the last four digits of the account number; the date and amount of the charge-off balance; the date and amount of the last payment, if any; the amounts of any post-charge-off interest and post-charge-off fees and charges, less any post-charge-off credits or payments made by or on behalf the defendant; and the balance due at the time of sale.

(h) If a verified complaint has been served, it may be used as the plaintiff's affidavit of facts where it satisfies the elements of the AFFIDAVIT OF FACTS AND PURCHASE OF ACCOUNT BY DEBT BUYER PLAINTIFF.

(i) The County Clerk or clerk of the court shall refuse to accept for filing a default judgment application that does not comply with the requirements of this section.

(j) Nothing in this section is intended to impair a plaintiff's ability to make a default judgment application to the court as authorized under CPLR 3215(b).

Section 202.6 Request for judicial intervention.

(a) At any time after service of process, a party may file a request for judicial intervention. Except as provided in subdivision (b) of this section, in an action not yet assigned to a judge, the court shall not accept for filing a notice of motion, order to show cause, application for ex parte order, notice of petition, note of issue, notice of medical, dental or podiatric malpractice action, statement of net worth pursuant to section 236 of the Domestic Relations Law or request for a preliminary conference pursuant to section 202.12(a) of this Part, unless such notice or application is accompanied by a request for judicial intervention. Where an application for poor person relief is made, payment of the fee for filing the request for judicial intervention accompanying the application shall be required only upon denial of the application. A request for judicial intervention must be submitted, in duplicate, on a form authorized by the Chief Administrator of the Courts, with proof of service on the other parties to the action (but proof of service is not required where the application is ex parte).

(b) A request for judicial intervention shall be filed, without fee, for any application to a court not filed in an action or proceeding, as well as for a petition for the sale or finance of religious/not-for-profit property, an application for change of name, a habeas corpus proceeding where the movant is institutionalized, an application under CPLR 3102(e) for court assistance in obtaining disclosure in an action pending in another state, a retention proceeding authorized by article 9 of the Mental Hygiene Law, a proceeding authorized by article 10 of the Mental Hygiene Law, an appeal to a county court of a civil case brought in a court of limited jurisdiction, an application to vacate a judgement on account of bankruptcy, **an application for a default judgment in a consumer credit matter pursuant to section 202.27-a of this Part,** a motion for an order authorizing emergency surgery, or within the City of New York, an uncontested action for a judgment for annulment, divorce or separation commenced pursuant to article 9, 10 or 11 of the Domestic Relations Law.

(c) In the counties within the City of New York, when a request for judicial intervention is filed, the clerk shall require submission of a copy of the receipt of purchase of the index number provided by the County Clerk, or a written statement of the County Clerk that an index number was purchased in the action. Unless otherwise authorized by the Chief Administrator, the filing of a request for judicial intervention pursuant to this section shall cause the assignment of the action to a judge pursuant to section 202.3 of this Part. The clerk may require that a self-addressed and stamped envelope accompany the request for judicial intervention.

Additional Notice of Consumer Credit Action

§ 208.6(h) Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the New York City Civil Court)

(a) Additional mailing of notice on an action arising from a consumer credit transaction.

(1) At the time of filing with the clerk the proof of service of the summons and complaint in an action arising from a consumer credit transaction, or at any time thereafter, the plaintiff shall submit to the clerk a **stamped** **unsealed** envelope addressed to the defendant together with a written notice, in both English and Spanish, containing the following language:

CIVIL COURT. CITY OF NEW YORK. _____

COUNTY OF _____ INDEX NO. _____

Plaintiff _____ Defendant _____

ATTENTION: A lawsuit has been filed against you claiming that you owe money for an unpaid consumer debt. You should go to the court clerk's office at the address listed on the face of the envelope as soon as possible to respond to the lawsuit by filing an "answer." You may wish to contact an attorney. If you do not respond to the lawsuit, the court may enter a money judgment against you. Once entered, a judgment is good and can be used against you for twenty years, and your personal property and money, including a portion of your paycheck and/or bank account, may be taken from you. Also, a judgment will affect your credit score and can affect your ability to rent a home, find a job, or take out a loan. You cannot be arrested or sent to jail for owing a debt.

It is important that you go to the court clerk's office listed above as soon as possible. You should bring this notice and any legal papers you may have received. Additional information can be found on the court system's website at: www.nycourts.gov

PRECAUCIÓN: Se ha presentado una demanda en su contra reclamando que usted debe dinero por una deuda al consumidor no saldada. Usted debe dirigirse a las ventanillas del secretario del tribunal, localizada en la dirección enumerada en el frente del sobre que recibió, tan pronto como le sea posible, para responder a la demanda presentando una "contestación." Quizás usted quiera comunicarse con un abogado. Si usted no presenta una contestación, el tribunal puede emitir un fallo monetario en contra suya. Una vez emitido, ese fallo es válido y puede ser

utilizado contra usted por un período de veinte años, y contra su propiedad personal y su dinero, incluyendo una porción de su salario y/o su cuenta bancaria, los cuales pueden ser embargados. Además, un fallo monetario afecta su crédito y puede afectar su capacidad de alquilar una casa, encontrar trabajo o solicitar un préstamo para comprar un automóvil. Usted no puede ser arrestado ni apresado por adeudar dinero.

Es importante que se dirija a las ventanillas del secretario judicial antes mencionado tan pronto como pueda. Usted debe presentar esta notificación y cualesquiera documentos legales que haya recibido. Puede obtener información adicional en el sitio web del sistema: www.nycourts.gov.

The face of the envelope shall be addressed to the defendant at the address at which process was served, and shall contain the defendant's name, address (including apartment number) and zip code. The face of the envelope also shall contain, in the form of a return address, the appropriate address of the clerk's office to which the defendant should be directed. These addresses are:

[INSERT APPROPRIATE COURT ADDRESS OR ADDRESSES]

(2) The clerk promptly shall mail to the defendant the envelope containing the additional notice set forth in paragraph (1). No default judgment based on defendant's failure to answer shall be entered unless there has been compliance with this subdivision and at least 20 days have elapsed from the date of mailing by the clerk. No default judgment based on defendant's failure to answer shall be entered if the additional notice is returned to the court as undeliverable, unless the address at which process was served matches the address of the defendant on a Certified Abstract of Driving Record issued from the New York State Department of Motor Vehicles. Receipt of the additional notice by the defendant does not confer jurisdiction on the court in the absence of proper service of process.

§ 202.27-b Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the Supreme Court and the County Court)

§ 210.14-b Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the City Courts Outside the City of New York)

§ 212.14-b Additional Mailing of Notice on an Action Arising from a Consumer Credit Transaction (Uniform Civil Rules for the District Courts)

(a) Additional mailing of notice on an action arising from a consumer credit transaction.

(1) At the time of filing with the clerk the proof of service of the summons and complaint in an action arising from a consumer credit transaction, or at any time thereafter, the plaintiff shall submit to the clerk a **stamped** **unsealed** envelope addressed to the defendant together with a written notice, in both English and Spanish, containing the following language:

SUPREME/DISTRICT/CITY COURT. COUNTY/CITY OF _____

COUNTY OF _____ INDEX NO. _____

Plaintiff _____ Defendant _____

ATTENTION: A lawsuit has been filed against you claiming that you owe money for an unpaid consumer debt. You should respond to the lawsuit as soon as possible by filing an "answer." You may wish to contact an attorney. If you do not respond to the lawsuit, the court may enter a money judgment against you. Once entered, a judgment is good and can be used against you for twenty years, and your personal property and money, including a portion of your paycheck and/or bank account, may be taken from you. Also, a judgment will affect your credit score and can affect your ability to rent a home, find a job, or take out a loan. You cannot be arrested or sent to jail for owing a debt. Additional information can be found on the court system's website at: www.nycourts.gov

PRECAUCIÓN: Se ha presentado una demanda en su contra reclamando que usted debe dinero por una deuda al consumidor no saldada. Usted debe, tan pronto como le sea posible, responder a la demanda presentando una "contestación." Quizás usted quiera comunicarse con un abogado. Si usted no presenta una contestación, el tribunal puede emitir un fallo monetario en contra suya. Una vez

emitido, ese fallo es válido y puede ser utilizado contra usted por un período de veinte años, y contra su propiedad personal y su dinero, incluyendo una porción de su salario y/o su cuenta bancaria, los cuales pueden ser embargados. Además, un fallo monetario afecta su crédito y puede afectar su capacidad de alquilar una casa, encontrar trabajo o solicitar un préstamo para comprar un automóvil. Usted no puede ser arrestado ni apresado por adeudar dinero. Puede obtener información adicional en el sitio web del sistema: www.nycourts.gov.

The face of the envelope shall be addressed to the defendant at the address at which process was served, and shall contain the defendant's name, address (including apartment number) and zip code. The face of the envelope also shall contain, in the form of a return address, the appropriate address of the clerk's office to which the defendant should be directed. These addresses are:

[INSERT APPROPRIATE COURT ADDRESS OR ADDRESSES]

(2) The clerk promptly shall mail to the defendant the envelope containing the additional notice set forth in paragraph (1). No default judgment based on defendant's failure to answer shall be entered unless there has been compliance with this subdivision and at least 20 days have elapsed from the date of mailing by the clerk. No default judgment based on defendant's failure to answer shall be entered if the additional notice is returned to the court as undeliverable, unless the address at which process was served matches the address of the defendant on a Certified Abstract of Driving Record issued from the New York State Department of Motor Vehicles. Receipt of the additional notice by the defendant does not confer jurisdiction on the court in the absence of proper service of process.