

**CIVIL COURT OF THE CITY OF NEW YORK**

**DIRECTIVES & PROCEDURES**

Subject: Post-Judgment Money Only  
Orders to Show Cause in the Housing Part

Class: DRP 144  
Category: GP 10, LT 40  
Date: April 28, 1997

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**BACKGROUND:**

The normal process for a summary proceeding results in a dual judgment: a judgment for possession of the premises and a judgment for money. After possession of the premises is given to the landlord, the money portion of the judgment may still be due, and the judgment creditor may seek enforcement by execution, etc. While this was an uncommon practice years ago, lately there are many cases in which a respondent finds that the landlord has obtained an execution and now seeks the money due on the money portion of the judgment.

For many years Order to Show Cause applications were routed to the Special Term (Civil Court) Judge where the only relief requested was vacatur of the money judgment portion of the judgment from the Housing Part. Housing Judges have no jurisdiction over these applications, as there no longer exists a Landlord/Tenant relationship.

Several years ago Bronx County began routing these applications to the Civil Court Judge in Part 18 and Kings recently adopted the same procedure. This method appears to cause less confusion for the Court and the litigants.

To standardize the procedure Citywide, the following rules are to be implemented:

**DIRECTIVE**

When an application for vacatur of a Landlord-Tenant judgment is made by a respondent who is no longer in possession of the premises and is not requesting to be restored:

1. The Order to Show Cause application or motion is to be filed in the Landlord and Tenant/Housing Part Office.

2. The Clerk is to mark the application clearly on its face

“POST-JUDGMENT MONEY ONLY

Refer to Civil Court Judge”

Stamps are being provided for this purpose

3. The application is to be handled by the Civil Court Judge presiding in Part 18 (or Part 19) and, if signed, is to be made returnable in that Part. If a Housing Part Judge is presiding over Part 18, the Supervising Judge is to designate a Civil Court Judge to handle the application.

4. On the return date the motion is to be handled by the Civil Court Judge assigned to Part 18, (or 19), and under no circumstance shall it be referred to a Housing Judge.

5. If the Order to Show Cause is granted and the case is restored to the calendar, the case may be heard and disposed of by the Civil Court Judge presiding in Part 18 (or 19). If the case is complicated and will require lengthy trial time, discovery, etc., the Civil Court Judge shall issue an Order transferring the case to the Civil Part of the Court, and ordering that a free Civil Court index number be issued. If the respondent/defendant is to file an answer, the order shall also specify the time for its filing. From that point on the matter is to be deemed a civil matter and must follow regular Civil Court procedure for a plenary action.

Date: \_\_\_\_\_

\_\_\_\_\_  
HON. FERN FISHER-BRANDVEEN  
Administrative Judge

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The directive of the Administrative Judge is to be implemented as follows.

**PROCEDURE**

1. All Order to Show Cause applications in which the post judgment relief sought is the vacatur of a money judgment only, and not possession, are to be prepared in the Landlord and Tenant/Housing Part Office.

2. These applications are to be made returnable in Part 18 (or 19). This applies to all cases, including those cases in which the Housing Judge who signed the judgment is currently available.

3. The face of the Order to Show Cause or motion shall be stamped with the stamp in the upper right hand space of the Order to Show Cause application that says:

"POST- JUDGMENT MONEY ONLY  
Refer to Civil Court Judge"

4. Since Housing Part Judges have no jurisdiction over these matters, be sure that these cases are not referred to a Housing Judge.

5. If the Civil Court Judge presiding in Part 18, (or 19), grants the motion to restore the case to the calendar and transfers it to the Civil Part for trial, be sure that the Order contains a direction to the Clerk to issue a free number, if the Judge deems this appropriate, and if not, that the Order specifies what the parties are to do. If the Judge is permitting or requiring the filing of answer, this should also be specified in the order, as well as the time frame for that filing.

Date: \_\_\_\_\_

\_\_\_\_\_  
JACK BAER  
Chief Clerk