

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK’S MEMORANDUM

Subject: Additional Notice on Consumer Credit Actions
22NYCCRR 208.6 (h)

Class: CCM- 176
Category: GP-20
Eff. Date: April 1, 2008

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BACKGROUND

22 NYCCRR Section 208.6 of the Uniform Civil Rules for the New York City Civil Court has been amended by adding subsection 208.6 (h). This new rule requires that at the time of filing the proof of the service of the summons and complaint in a consumer credit transaction, or any time thereafter, the plaintiff submit an envelope containing a required notice to the clerk. The following procedures are being established to accommodate this new rule.

DIRECTIVE

- 1) At the time of filing the proof of service of the summons and complaint, the clerk receiving the proof of service will check for the submission of the envelope containing the 208.6 notice.
 - If the envelope is submitted with the affidavit the clerk will check the name and address of the defendant(s) and the court on the envelope against the affidavit of service. If the information matches the clerk will receipt stamp and file the affidavit and promptly mail the envelope. Envelopes should be mailed on date of receipt. If the name and address of the defendant(s) and the court do not correspond to the information on the affidavit of service the clerk is to inform the filer of the error and return the envelope to the filer and stamp the affidavit “no additional notice received.”
 - If the envelope is not submitted with the affidavit of service the clerk will stamp the affidavit filed and also stamp it “no additional notice received.”
- 2) After the filing of the affidavit of service of the summons and complaint the plaintiff may submit the additional mailing envelope to the clerk. The clerk is to update the court file and the affidavit of service to reflect the date of submission of the additional mailing and promptly mail the envelope.
- 3) Upon receipt of a request for judgment in a consumer credit action, in addition to the statutory requirements, the clerk is to review the affidavit of service to assure compliance with this rule.
 - If the affidavit of service does not indicate that the notice was not received the clerk will assume the notice was mailed on the date of filing of the affidavit of service and process the request for a default judgment as usual.
 - If the affidavit of service indicates that the additional notice was not submitted the clerk is to reject the request for a default judgment and inform the requestor that no default judgment will be entered unless this rule is complied with and at least 20 days have elapsed from the date of mailing.

4) If, after a request for default judgment has been rejected for failure to comply with this rule, the plaintiff submits an envelope with the 208.6 (h) notice, the clerk will check the name and address of the defendant(s) and the court on the envelope against the affidavit of service.

- If the information on the envelope matches the information on the affidavit of service the clerk will indicate on the file that the additional notice requirement has been met and the date of the compliance. The clerk will promptly mail the envelope. The clerk will not enter a default judgment until at least 20 days have elapsed from the date of mailing.
- If the name and address of the defendant(s) and the court do not correspond to the information on the affidavit of service the clerk is to inform the filer of the error and return the envelope to the filer.

5) If the clerk receives a returned envelope from the post office the clerk is to open the envelope to ascertain the index number and caption of the action. The envelope and the notice are to be filed in the court file and a notations made on the file folder that the notice was returned by the post office.

We expect in the near future to have bar code technology. When this becomes available we will adjust the procedures to allow for the new technology.

Date: _____

Jack Baer
Chief Clerk