

CIVIL COURT OF THE CITY OF NEW YORK

DIRECTIVES AND PROCEDURES

Subject: Management of Motions for Default Judgment
Under L. 2021, Ch. 417, Part C, Section in the New York
City Civil Court, Housing Part

Class: DRP-219
Category: LT-20
LT-30
Eff. Date: November 23, 2021

BACKGROUND:

Effective September 2, 2021, L. 2021, Ch. 417, Part C, Section 5, established a procedure for seeking a default judgment and warrant in a residential eviction proceeding during the period covered by the statute. The statute requires that Petitioner make a motion for this relief and that the Court hold a hearing on the motion. The hearing must be held after September 2, 2021. The Housing Part of the Civil Court is now receiving large numbers of these motions. To manage these motions effectively, the Court institutes the following requirements. These requirements will remain in effect through January 15, 2022, or until any later date to which the law is extended.

DIRECTIVE:

1. **Motion**: No judgment or warrant will be issued on default without a motion by Petitioner for such relief. Motions for default judgments must be made returnable in the HMP Part unless the case has already been assigned to a Resolution Part and all Respondents are represented by counsel. If Respondent fails to appear in the HMP Part after notice from the Court, the motion will be assigned to a Resolution Part for determination. If the Respondent appears, counsel will be assigned and the case will be transferred to the Resolution Part for all purposes.
2. **Hearing**: The Court will hold a hearing on the motion on the record. At the hearing, the Court will explore at least the following issues:
 - a. **Notice of Hearing**: Whether Petitioner has served Respondent with notice of the date, time and place of the hearing, and whether Petitioner has submitted an affidavit of such service and a copy of the notice to the Court, L. 2021, Ch. 417, Part C, Section 5;
 - b. **Hardship Declaration**: Whether Respondent has been served with a Hardship Declaration, the date of such service, whether Respondent has sent a signed Hardship Declaration to the Petitioner or to the Court, whether the petition in the case alleges nuisance behavior, whether Petitioner has a good faith belief that a Hardship Declaration is not valid and has filed a motion to challenge the Hardship Declaration;
 - c. **ERAP**: Whether the Respondent has applied for an ERAP grant for Covid-period rent; and
 - d. **Verified Petition**: Whether, if the petition is verified upon information and belief, a person with personal knowledge has sworn to facts sufficient to comply with DRP 191A and *Sella Properties v. DeLeon*, 25 Misc. 3d 85 (App. T. 2nd Dep't. 2009).
3. **Order in Writing**: The Court shall issue an order in writing deciding the motion. If the motion is granted, the order shall, at a minimum, recite findings of fact necessary to enable the clerks to prepare a warrant compliant with L. 2021, Ch. 417, Part C, Section 6. If the motion is denied

without prejudice, on procedural or technical grounds, a new motion may be made returnable in the assigned Resolution Part.

4. Warrant Section: If the motion is granted, a Marshal's Requisition for a default warrant may be submitted to the Warrant Section. The Requisition must be supported by an affidavit of a nonmilitary investigation. No nonmilitary affidavit or testimony about military status need be submitted earlier in the motion process, since such affidavits and evidence are good for only 30 days. *See* LSM 152A and LSM 152B. After review, the Warrant Section shall refer the case to the Judge who decided the motion for review and signature.

Note: Upon request by a respondent, default judgments issued prior to December 28, 2020 and between August 13, 2021 and September 2, 2021 must be vacated or "removed" and restored to the calendar.

Date: November 23, 2021

/s/
Hon. Carolyn Walker-Diallo
Administrative Judge