

CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK’S MEMORANDUM

Subject: NYSDMV Report Used to Validate Address

Class: CCM- 184

Category: GP-20

Eff. Date: April 21, 2009

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BACKGROUND

Recently we have received a number of calls from plaintiffs and process servers on how to proceed when a 208.6 (h) notice is returned to the court by the United States Post Office, as undeliverable. Our current practice is to reject the request for entry of a default judgment and advise the plaintiff’s attorney to move by motion or file a notice of inquest so that the court can make a determination as to whether the defendant’s address was sufficient. It has been brought to our attention that many envelopes returned as undeliverable are in fact addressed to the same address on record with the New York State Department of Motor Vehicles (NYSDMV). Vehicle and Traffic Law § 505 (5) requires that every Motor Vehicle licensee notify the Commissioner of Motor Vehicles of any change in residence within 10 days of the occurrence of this change. A party who fails to comply with this provision is estopped from challenging the propriety of service made to that address (*see, Sherrill v. Pettiford*, 172 A.D.2d 512, 513, 567, N.Y.S.2d 859; *Lavery v. Lopez*, 131 A.D.2d 820, 571 N.Y.S.2d 182). To allow for the processing of a default judgment after a 208.6 (h) notice is returned to the court as undeliverable we are instituting the following procedure.

DIRECTIVE

The judgment clerk will accept as a valid address the address of the defendant(s) on a Certified Abstract of Driving Record issued from the New York State Department of Motor Vehicles when the 208.6 (h) notice has been returned by the Post Office as undeliverable. A Certified Abstract of Driving Record is accessible using a Dial-in Search Account, available via the NYSDMV website.

When the judgment clerk receives notice of the defendant’s address on the Certified Abstract of Driving Record, and that address matches the defendant’s address on the returned envelope, if visible, or on the summons and/or affidavit of service, the clerk will disregard the returned 208.6 (h) notice and process the request for default judgment as per CPLR § 3215.

4/21/09
Date

/s/
Jack Baer
Chief Clerk