

CIVIL COURT OF THE CITY OF NEW YORK

CIVIL COURT DIRECTIVE

Subject: Entry of Default Judgments

Class: DRP-191

Category: LT-20

Eff. Date: April 23, 2010

=====

BACKGROUND:

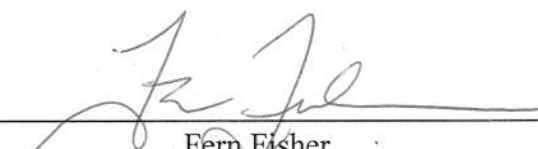
It has long been our practice to follow RPAPL § 741 which refers to CPLR § 3020(d), that if a petition was verified by the attorney for the party, it would be acceptable for the entry of a default judgment. A recent Appellate Court decision, Sella Propers. V DeLeon, 25 Misc 3D 85, Second Department, 2009 found that an attorney verified petition is sufficient to satisfy RPAPL 741, however, entry of a default judgment requires a petition or an affidavit sworn to by an individual with personal knowledge of the facts.

Based on the above case and practice annotation, we now direct the following:

DIRECTIVE:

1. A petition or affidavit of facts verified by *the party's attorney is not sufficient* for the entry of a default judgment, unless the attorney has personal knowledge of the facts and says this in the petition or affidavit.
2. Applications for default judgment must be accompanied by an affidavit from a party with personal knowledge.
3. Applications for default judgment that are not accompanied by an affidavit from a party with personal knowledge should be returned with a notation that they can be resubmitted with the appropriate affidavit.
4. The affidavit of default may be made by the attorney.

4/16/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Fern Fisher  
Deputy Chief Administrative Judge  
New York City Courts