

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

**ADVISORY NOTICE**

**Subject: Notification To Adult Protective Services**

**Class: AN**

**Category: LT-10**

**Eff. Date: December 10, 2002**

The purpose of this Advisory Notice is to reemphasize the importance of bringing Adult Protective Services (“APS” formerly known as “PSA”), into a Housing Court proceeding whenever a litigant may qualify for services; and, to outline the best procedures for notifying APS when an eviction is imminent so that the notice can be the most effective.

Adult Protective Services is a state-mandated program provided to individuals, 18 years of age or older who, because of mental and physical impairments:

- a. are unable to manage their own resources, or
- b. carry out the activities of daily living, or
- c. protect themselves from neglect or hazardous situations, and
- d. have no one available who is willing and able to assist them responsibly.

Services from APS may include identifying such adults and assessing their needs, providing help with financial management, assisting in the location of social services, medical care, community resources and government entitlements, arranging for guardianship, commitment or other protective placements, and assistance with temporary relocation upon eviction. The Department of Social Services regulations for APS can be found in N.Y. Comp. Codes R. & Regs. Title 18, § 457.1.

During a proceeding, APS is available to evaluate and assist a litigant who may be in need of one of the numerous services outlined above, including the assessing if there is a need for the appointment of a guardian ad litem. In Housing Court, where the volume of cases is frequently quite large and the time available for most cases to be heard is quite short, APS can

invaluable in bringing particular physical and psychological circumstances of a litigant to the court's attention which are not always obvious but which, when discerned, require special handling of a case. Sometimes litigant's issues are beyond our expertise as judges and court attorneys to detect. Therefore, if a litigant demonstrates impaired behavior or you suspect a litigant is at risk of eviction or meets the criteria for APS, I advise you to notify APS directly to conduct an evaluation early in the proceeding to prevent delay in the proceeding. Such an assessment often aids the court in preventing a potential miscarriage of justice and may prevent embarrassment or other negative connotations to the Judge should an undiscerned issue result in harm to the litigant or other parties involved in the eviction.

Once a final judgment is signed and a warrant is to issue, contacting APS is equally essential because APS can assist the litigant at the time of eviction and can arrange for appropriate alternative living arrangements in the community or in an institution providing room and board for a period up to 30 days. It is important to bear in mind that a litigant who may be elderly, or disabled, and in control of their housing court proceeding, may still need APS assistance at the time of the eviction. In many cases, these factors can often be brought out during an allocution.

If you believe that APS should be notified that an eviction is scheduled to take place, then it is vital that APS actually receive notice. Recently, I have received complaints from Marshals through the Department of Investigations because stipulations and orders have been issued which do not clearly delineate who is directed to notify APS that an individual in need resides in the premises to be recovered. It is not uncommon to see an order which reads, "OSC DNAM - All stays vacated. PSA to be notified." Such an order is ineffective to provide APS with actual notice. The result is that a Marshal may arrive at the premises having never seen the order or

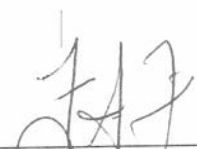
stipulation, without any knowledge that services are needed. Pursuant to section 6-6 of the Marshal's Handbook, whenever a premises scheduled for an eviction is occupied by an individual who is unable to fend for themselves, the Marshal is required to notify the Department of Investigation and the Department will notify APS. The eviction must be rescheduled and APS contacted if the Marshal arrives at a premises and discovers an individual who meets this criteria. In the event the litigant is not home, and a Marshal is unaware that the litigant qualifies for APS services, great harm can be done. In a recent case, a psychiatric patient was evicted when he was not home. The Marshal was unaware of the litigant's background. The litigant's psychiatric medicine was in the apartment. Ultimately, the litigant required hospitalization.

Accordingly, Judges are advised to consider the following procedures for notifying APS when a warrant of eviction is involved, so that the notice can be the most effective:

- a. when a final judgment of possession is ordered, Judges or their court attorneys should notify APS directly, or clearly direct the landlord's attorney to notify the Marshal in advance of the service of the Marshal's notice.
- b. when an order to show cause is denied, and no previous notification has been made, Judges or their court attorneys should notify the Marshal directly.

You can contact APS by telephoning the central intake unit for all boroughs at (212) 630-1853. The services of a Resources Assistant may be utilized to contact APS and the Marshal when the need arises.

December 10, 2002  
Date

  
Fern A. Fisher  
Administrative Judge