

Attachment 2

DEFAULT JUDGMENT PROCEDURES OF UNITED STATES DISTRICT JUDGE VICTOR MARRERO SOUTHERN DISTRICT OF NEW YORK

Effective September 1, 2010

I. Applications.

Applications for default judgments must comply with Local Civil Rule 55.1 and 55.2 and must provide reasonable notice to the party against whom default shall be entered by:

1. First-class mail or courier, if the party is domestic;
2. Courier, if the party is international; or
3. Any method authorized by Rule 4 of the Federal Rules of Civil Procedure.

Applications will not be accepted absent the following:

1. An affidavit setting forth:
 - a. A description of the nature of the claim;
 - b. The basis for subject matter jurisdiction over the action;
 - c. The basis for personal jurisdiction over the defendant;
 - d. A representation that defendant is not an infant or an incompetent; and
 - e. A representation that notice has been provided in accordance with the requirements set forth above;
2. A certificate of default stating that the defendant was properly served with the complaint and failed to answer/appear, signed and stamped by the Clerk of Court. (If the defendant did appear in the action, the plaintiff must submit an affidavit representing that the defendant has notice of the application for default);
3. An affidavit setting forth reasonable attorneys' fees and showing that attorneys' fees are recoverable;
4. A copy of the complaint; and
5. A proposed form of default judgment.

II. Damages.

If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:

1. A request for an amount equal to or less than the principal amount demanded in the complaint;
2. Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. (If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will be determined by an inquest);
3. An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;
4. If interest is sought, a request for interest on the principal amount not to exceed the New York State statutory rate or the federal rate as applicable; and
5. The calculations made in arriving at the proposed judgment amount.