CIVIL COURT OF THE CITY OF NEW YORK

CHIEF CLERK'S MEMORANDUM   **Class:**   **CCM 169**
Subject: Motions on Calendared Cases: **Category:** **GP 20**
Summary Judgment   **Eff. Date:** **August 15, 2006**
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<u>Background</u>

      22 NYCRR 208.10 requires, among other things, that a notice of motion specify on its face whether or not the case is on a trial calendar. Recently several motions for summary judgment on cases that were already on the calendar and had future appearance dates have been filed without specifying the calendar status. These motions have been granted and judgment in favor of the movant ordered on default. Had the information been provided to the judge, s/he could have ordered that the clerk be served and that the answer be stricken, the case taken of the calendar, and judgment entered as appropriate. In order to avoid confusion and ensure consistent procedure, the following rules are being established.

<u>Procedure</u>

      1. Upon receipt of a motion in the clerks office, the clerk is to check the face of the motion as to the calendar status. A calendar status must be provided.

      2. If a calendar status is not provided following 22 NYCRR 208.10, the clerk is to return the motion to the person filing it for him/her to provide it. If it comes into the court by mail or is dropped-off in some manner where the clerk has no contact with the filer, the clerk is to check the status and write it on the face of the notice of motion.

      3. If a motion requests summary judgment and that relief is granted, it disposes of the action and judgment is to be entered accordingly. However, if upon review of the papers after the granting of a motion for summary judgment the judgment clerk discovers an inconsistency in reference to the calendar status, the clerk is to inform the judge of said inconsistency for him/her to provide direction.

      4. If the case is assigned to a part, the clerk who reviews and enters the judgment is to notify the part clerk that a judgment has been entered. On the return day the part clerk is to inform the judge and remove the case from the calendar.

Dated _____   _____/s/_____
                                                      Jack Baer