

CIVIL COURT OF THE CITY OF NEW YORK

Civil Court Directive

Subject: Costs and Sanctions

Class: DRP-104

Category: GP-20, LT-20

Eff. Date: Aug. 21, 1989

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BACKGROUND

Effective January 1, 1989, an addition to the Rules of the Chief Judge (22 NYCRR Part 37; Costs and Sanctions) authorized and an addition to the Rules of the Chief Administrator of the Courts (22 NYCRR Part 130; Awards of Costs and Imposition of Financial Sanctions for Frivolous Conduct in Civil Litigation) implemented what have come to be known as the “Sanction Rules.”

These new Rules, which specifically exclude Small Claims, but specifically include “Judges of the Housing Part,” allow for the award of costs or the imposition of financial sanctions, or both, in an amount not to exceed \$10,000 per proceeding on “any party or attorney” who engages in “frivolous conduct” as defined by the Rules.

Rule 22 NYCRR 130.2 requires that the award of costs or the imposition of sanctions shall be entered as a Judgment of the Court against the litigant or attorney.

Rule 22 NYCRR 130.3 states that payments of sanctions by an attorney “shall be deposited with the Clients’ Security Fund,” while payments of sanctions by a party who is not an attorney “shall be deposited with the Clerk of the Court for transmittal to the State Commissioner of Taxation and Finance.”

Although the Judiciary Law requires that all Court revenues shall be transmitted to the Commissioner of Taxation and Finance, the new Rule states that sanctions shall be “deposited with the Clients’ Security Fund.” In order to resolve what appears to be a conflict, the Director of Budget and Finance of the Office of Court Administration has provided specific procedures. Budget Bulletin Number 127 clarifies that while all payments are to be transmitted to the Commissioner of Taxation and Finance, special coding will be utilized to allow such Commissioner to segregate the receipts into either the General State Revenues Fund or the Clients’ Security Fund.

In further clarification, the Deputy Chief Administrator has issued an administrative memorandum, dated July 7, 1989, in which he provides operational (non-fiscal) procedures by adding that:

- all individuals upon whom a sanction has been imposed should be directed to make their payment to the Clerk of the Court and not directly to the Clients’ Security Fund;
- the clerk must issue a Satisfaction of Judgment whenever a sanction has been paid;
- where payment of a sanction has been inadvertently made directly to the Clients’ Security Fund, this transaction should be treated as if it had been made directly to the clerk and a Satisfaction of Judgment should also be issued.

DIRECTIVE

Accordingly, it is the Directive of the Administrative Judge of the Civil Court that:

All payments for Judgments entered based upon sanctions imposed as a result of 22 NYCRR Part 130 are to be paid to the Clerk of the Court in the respective division in which the Judgment was entered.

Any Judge ordering such Judgment for sanctions is to direct the Judgment Debtor to pay the Judgment to the Clerk of the Court, even when the sanction is imposed against an attorney.

Upon payment of the sanction, the Clerk is to issue both a receipt and also a Satisfaction of Judgment.

All such payments are to be regarded as revenue and will be submitted to the Commissioner of Taxation and Finance along with the rest of the revenue. In accordance with the procedures specified by the OCA Budget and Finance Office, special revenue coding will be utilized by the Citywide Administration Office of Civil Court in reporting money's received, in order to ensure that any sanction revenues which are to go to the Clients' Security Fund are properly credited to that fund.

Dated: August 21, 1989

Jacqueline W. Silbermann
Administrative Judge

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It is the determination of the Chief Clerk of the Civil Court that this Directive be implemented as follows:

Following the addition of 22 NYCRR Parts 37 and 130, and based upon the Directive of the Administrative Judge of the Civil Court, the Clerk shall accept payment of financial sanctions imposed pursuant to those rules utilizing the following procedures:

CLERK'S PROCEDURES

Provide Advice to Judgment Debtors.

All individuals upon whom a sanction has been imposed should be directed to make their payments to the Clerk of the Court (payable at either the L&T Cashier or the Civil Court Cashier, as appropriate) and not make such payment directly to the Clients' Security Fund. No sanctions are permitted in Small Claims cases.

Acceptable Payments.

The Clerk may accept payments for sanctions in cash, by certified check, bank check, money order and, if from an attorney, by attorney's check. The payment is to cover the total amount of the judgment, and may not be accepted without having the Judgment on hand for

- 1) verification of the amount and
- 2) entry of the Satisfaction

General Revenue.

The payment of sanctions is to be treated as general revenue, entered into the Cash Receipts Journal, and deposited in the revenue account for transfer to the Commissioner of Taxation and Finance along with the rest of the revenue.

Notification to Client Security Fund (CSF).

Where a financial sanction has been imposed on an attorney, necessitating the transmittal of funds to the credit of the Clients' Security Fund, the Clerk of the County should submit a copy of the Court's Order or Judgment to:

Client Security Fund
55 Elk Street
Albany, NY 12201

and a copy to the Civil Court's Budge, Finance and Statistics Office attached to the Monthly Report of Money's Received.

Entries.

The entry on the Cash Receipts Journal is to be made in one of the blank columns.

- If the money is paid as a result of sanctions levied upon an attorney, it is to go to the Client's Security Fund. The column is to be labeled CSF.
- If the money is paid as a result of sanctions levied upon anyone other than an attorney, it is to go to the General State Fund, and the column is to be labeled Miscellaneous.

This procedure is similar to the procedure for accepting payments ordered upon a finding of Contempt.

Receipt.

Upon receipt of the payment the Clerk is to issue a receipt ([either the current 43-4010 or the new CIV-RB-70] by making an entry under "Other" indicating the reason and the amount.

Satisfaction of Judgment.

In addition to a receipt, the Clerk will also issue a "Satisfaction of Judgment Entered Pursuant to 22 NYCRR Part 130" (CIV-GP-80.1). The Satisfaction of Judgment form is to be issued free of charge, and an entry is to be made on the Judgment itself indicating:

- 1) the date of satisfaction,
- 2) the amount, and
- 3) the name of the person receiving the payment.

Payment made directly to the CSF.

In the rare instance where an attorney has made payment for sanctions directly to the Clients' Security Fund, and the fund has notified the Clerk of such payment, the issuance of a Satisfaction of Judgment regarding the transaction should be treated as if it had been made directly to the Court.

Upon receipt of such notification from the Fund, the Clerk is to note on the Judgment:

- 1) the date of satisfaction,
- 2) the amount,
- 3) a brief statement as to the notification, and
- 4) the name of the person entering the Satisfaction and then attach the notification from the Clients' Security Fund to the Judgment, and issue a "Satisfaction of Judgment pursuant to 22 NYCRR Part 130" (CIV-GP-80.1).

If the attorney who satisfied the Judgment is not present in court at the time that the notification from the Clients' Security Fund is received, the Satisfaction of Judgment (CIV-GP-80.1) is to be mailed by regular mail to the attorney at the address given in the papers

Cash Disbursement and Reporting.

The Budget, Finance and Statistics Section of Civil Court Citywide Administration will account for payments on sanctions received by the Civil Court in accordance with OCA Budget and Finance Office procedures.

The distribution of each payment will differ depending on whether the sanction was imposed upon an attorney or a litigant.

If it was imposed on an attorney, it will be credited to the Clients' Security Fund.

If it was imposed on anyone other than an attorney, it will be credited to General Revenue.

Dated: August 21, 1989

Jack Baer
Chief Clerk