ADMINISTRATIVE DIRECTIVE

OF THE

CHIEF JUDGE OF THE COURT OF COMMON PLEAS

FOR THE STATE OF DELAWARE

NO. 2012-2

This 29nd day of August, 2012,

WHEREAS, pursuant to 10 *Del. C.* § 1302(d), the authority being vested in the Chief Judge as the administrative head of the Court during the term of his appointment; and

WHEREAS, Court of Common Pleas Civil Rule 8, "General Rules of Pleading," sets forth the basic requirements of pleading required by Delaware law; and

WHEREAS, consumer debt collection actions filed with the Court continue to grow at an exponential rate, straining the court system and imposing an increased burden upon judicial resources; and

WHEREAS, the Court seeks to better manage consumer debt collection litigation to improve efficiency and fairness to litigants; and

WHEREAS, the Court finds it prudent and consistent with sound public policy and due process to adopt and implement standardized procedural guidelines in consumer debt collection actions to ensure fairness to all litigants and improve efficiency in the administration of justice; and

WHEREAS, the term "Principal Amount Due," when used herein, shall be defined in accordance with the substantive law applicable to the type of legal obligation upon which the action is based; and

WHEREAS, the term "Consumer Debt Collection Actions," when used herein, shall mean suits to recover the balance due on credit extended for personal, family or household purposes.

NOW, THEREFORE, IT IS DIRECTED that Administrative Directive 2011-1 is hereby rescinded and replaced in its entirety, as follows:

1. **Pleading Requirements for Complaints in Consumer Debt Collection Actions**: Any Consumer Debt Collection Complaint must include an Affidavit of Ownership and Amount Due which shall substantially conform to Form 1 appended hereto. Additionally, the following information shall be set forth in the Complaint:

   a. the caption shall include a sufficient description of the original creditor to reasonably enable the defendant to identify the account, along with the name of the plaintiff;

   b. the last four digits of the original account number or the account number that existed at the time of default; and

   c. a breakdown of the Principal Amount Due and interest, fees and other charges.

2. **Non-Compliance.** Allegations of non-compliance with this Administrative Directive shall be heard by the Court upon motion, or *sua sponte* until judgment is entered. All parties are expected to consult with one another in good faith in an attempt to resolve any disputes prior to filing such a motion.

3. **Judgment.**

a. Default Judgment. If the Plaintiff directs or requests the entry of default judgment due to a Defendant's failure to appear or respond to the Complaint, Plaintiff shall comply with Rule 55. The Affidavits submitted by Plaintiff shall substantially conform to Forms 2A and 2B appended hereto. If default judgment is sought pursuant to Rule 55(b)(1), the Direction and Affidavits may be submitted without notice. If default judgment is sought pursuant to Rule 55(b)(2), then submission shall conform to that subsection.

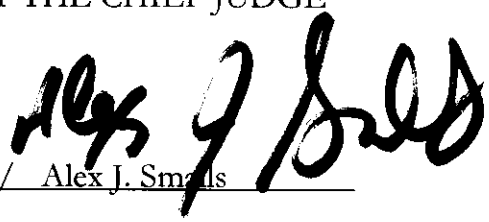
b. If it appears that the Plaintiff has failed to comply with this Administrative Directive, the Court may *sua sponte* deny the entry of judgment.

c. A judgment entered pursuant to this Administrative Directive may be set aside only upon Motion. In considering such Motion, the procedures and standards shall be governed by Rules 55(c) and 60.

d. A request for attorney's fees shall substantially conform to Form 2B and provide sufficient explanation of the basis for recovery of fees and the amount sought to enable the Court to make a determination of appropriateness and reasonableness as contemplated by Delaware law.

4. This Administrative Directive shall apply to all Consumer Debt Collection Actions within its scope filed on or after September 2, 2012.

BY THE CHIEF JUDGE



/s/ Alex J. Smalls

cc: Judge John K. Welch
Judge Rosemary Betts Beauregard
Judge Kenneth S. Clark, Jr.
Judge Charles W. Welch, III
Judge Joseph F. Flickinger, III
Judge Andrea L. Rocanelli
Judge Anne Hartnett Reigle
Judge Eric M. Davis
Commissioner Mary M. McDonough
Commissioner Joseph Whitmore Maybee
Stephanie Fitzgerald, Acting Court Administrator
Elizabeth Jonkiert, Clerk of the Court
Deborah Mowbray, Judicial Case Manager Administrator
Tamu White, Judicial Case Manager Supervisor
Teresa Lindale, Kent County Judicial Operations Manager
Wanda Smith, Sussex County Judicial Operations Manager
File