



## MASSACHUSETTS SUPREME JUDICIAL COURT ADOPTS NEW CIV PRO RULES FOR DEBT COLLECTION SUITS

The Massachusetts Supreme Judicial Court has adopted two new rules of civil procedure intended to address issues arising in consumer debt collection suits. The Supreme Judicial Court Standing Advisory Committee on the Rules of Civil Procedure proposed the new rules, which were adopted by the Court on May 22, 2018. The following two rules will become effective on January 1, 2019.

New Rule 8.1 requires a plaintiff in a case involving a "debt," (defined as any obligation or alleged obligation to pay money arising out of a transaction in which the money, personal property, insurance or services which are the subject of the transaction are primarily for personal, family or household use, not including obligations to pay money arising out of loan secured by real property) to file simultaneously with the complaint:

- An affidavit disclosing certain information with particularity regarding the debt, including the current owner of the debt, the date of chargeoff, and a chronological listing of the names of prior owners of the debt and date of each transfer.
- An affidavit providing documentation of the debt, including legible copies of documents establishing the existence, amount, terms and conditions applicable to the debt, and documents evidencing transfer of ownership.
- An affidavit stating defendant's residential address has been verified within three months prior to the action by one of the approved methods listed in Rule 8.1.
- A statute of limitations certification.

New Rule 55.1 mandates special requirements for defaults and default judgments for actions subject to the requirements of Rule 8.1, including:

- Plaintiff's request for entry of default judgment must be accompanied by an affidavit stating that (i) counsel has personally reviewed the documentation filed and served pursuant to Rule 8.1; (ii) the documentation meets all the requirements of Rule 8.1 and (iii) the documentation

establishes the plaintiff's entitlement to judgment in the amount claimed by the plaintiff.

- Plaintiff's request for entry of default judgment must be served on the defendant. If the service is to be made by mailing the request to the defendant's residential address, the plaintiff must, within three months prior to the request, reverify the defendant's current residential address and must file a new address verification pursuant to Rule 8.1.

The press release issued by the Supreme Judicial Court upon the adoption of these rules indicates that that the rules are intended to address issues emerging in civil actions against individuals for money damages arising from credit card debt. Please contact us if you have any questions. □

✧ *Elizabeth Anstaett and Emily Cellier*

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