CPLR 3215(h): Judgment May Be Entered Pursuant to Stipulation of Settlement Without Notice to Adversary

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CPLR 3215(h): Judgment may be entered pursuant to stipulation of settlement without notice to adversary.

CPLR 3215(h) provides, inter alia:

1. Where, after commencement of an action, a stipulation of settlement is made, providing, in the event of failure to comply with the stipulation, for entry without further notice of a judgment in a specified amount with interest, if any, from a date certain, the clerk shall enter judgment on the stipulation and an affidavit as to the failure to comply with the terms thereof. . . .

In a recent case, Star Office Supply Co. v. Galton, an attorney attempted, ex parte, to secure judgment pursuant to a stipulation, but was advised by the clerk that application to the court on notice to defendant was required.

The court held that CPLR 3215(h) eliminated the necessity of a motion to the court and authorized the clerk to enter judgment directly, where there has been a failure to comply with a stipulation of settlement. It was pointed out, however, that notice of motion will be required, in the "exceptional situation," where the parties have so agreed in the stipulation.

CPLR 3216: Held unconstitutional by first department.

In the midst of a standing conflict between the first and second departments, regarding the retroactivity of CPLR 3216,