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CPLR 2604: Amendment

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ARTICLE 12 — INFANTS AND INCOMPETENTS

CPLR 1210(e): Amendment.

This section provides that upon the appointment of a general guardian of an infant's person or property, the guardian will file a certified copy of his appointment with the clerk of the surrogate's court of the county in which he has been appointed.

ARTICLE 20 — MISTAKES, DEFECTS, IRREGULARITIES AND
EXTENSIONS OF TIME*CPLR 2003: Amendment.*

This section, which gives the court power to set aside a sale made pursuant to a judgment or order, has been amended so as not to be applicable to judicial sales made pursuant to Article 9 of the Uniform Commercial Code, the article dealing with secured transactions.

Section 9-501(1) of the UCC permits a secured creditor, after default, either to sell the collateral himself or to reduce his claim to a judgment and sale. Section 9-504(4) of the UCC provides that the purchaser at such sale takes a good title despite the failure of the creditor to comply with all relevant provisions of the UCC or the requirements of "any judicial proceeding." Thus, there was a possible conflict with UCC policy respecting sales under secured transactions and the CPLR's policy in judicial sales generally. The amendment seeks to avoid such a conflict.

ARTICLE 26 — PROPERTY PAID INTO COURT

CPLR 2604: Amendment.

This amendment drops specific mention of certain tables and instead includes them only by reference to RPAPL Article 4.

ARTICLE 30 — REMEDIES AND PLEADINGS

CPLR 3014: CPLR 3024(a) motion held applicable.

Recently, the first and second departments of the appellate division conflicted over the appealability of an order based on CPLR 3014 to separately state and number the claims alleged in a cause of action. While there is no specific authority in the CPLR for this precise corrective pleading motion,⁴³ CPLR 3024(a) provides that an order may issue where a party moves for a more definite statement because the pleading is vague or ambiguous.

⁴³ See 3 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ 3014.09 (1965); 7B MCKINNEY'S CPLR 3014, commentary 78 (1965).