

# The Survey of New York Practice Table of Contents

Editorial Board

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## Recommended Citation

Board, Editorial (1996) "The Survey of New York Practice Table of Contents," *St. John's Law Review*: Vol. 70 : No. 4 , Article 6.  
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol70/iss4/6>

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# THE SURVEY OF NEW YORK PRACTICE

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### INTRODUCTION\*

In this final issue of Volume 70, *The Survey* analyzes recent developments in New York law. Under Article 81 of New York's Mental Hygiene Law, the guardian of an incompetent person may be allowed to transfer the incompetent's assets for the purpose of becoming eligible for Medicaid benefits. Recent cases have interpreted Article 81 as allowing guardians to engage in Medicaid planning for the benefit of incompetents. This enables incompe-

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\* *The Survey* uses the following abbreviations:

New York Civil Practice Law and Rules (McKinney) .....	CPLR
New York Civil Practice Act .....	CPA
New York Criminal Procedure Law (McKinney) .....	CPL
New York Code of Criminal Procedure .....	CCP
Real Property Actions and Proceedings Law (McKinney) .....	RPAPL
Domestic Relations Law (McKinney) .....	DRL
Estates, Powers and Trusts Law (McKinney) .....	EPTL
General Business Law (McKinney) .....	GBL
General Municipal Law (McKinney) .....	GML
General Obligations Law (McKinney) .....	GOL
David Siegel, <i>New York Practice</i> (1991) .....	SIEGEL
Weinstein, Korn & Miller, <i>New York Civil Practice</i> (1989) .....	WK&M
<i>The Survey of New York Practice</i> .....	<i>The Survey</i>

tent individuals to take advantage of Medicaid planning which was previously only available to competent adults.

Recently, New York State's Committee on the Profession and the Courts has issued a report which recommends legislation designed to increase the public's confidence in the legal profession. New York Judiciary Law section 90(10) currently bans public access to attorney disciplinary proceedings. The writer asserts this ban has added to the public's lack of trust in the legal profession. As a step towards regaining the public's trust, the Committee on the Profession and the Courts has recommended that attorney disciplinary proceedings be accessible to the public upon a prima facie case of an ethical violation by the respondent-attorney. The writer suggests that this recommendation be followed by the New York legislature in amending New York Judiciary Law section 90(10).

In *Long Island Gynecological Services, P.C. v. 1103 Stewart Avenue Associates Limited Partnership*, the New York State Supreme Court, Appellate Division, Second Department, held that a landlord could not unilaterally modify an abortion clinic's lease to prohibit the tenant from conducting abortions. Furthermore, the court granted the clinic a *Yellowstone* injunction after the tenant's thirty-day cure period had expired because the lease provided for an extended cure period if the alleged defaults could not be completely cured within thirty days. The writer asserts that the court incorrectly granted the *Yellowstone* injunction because the clinic did not seek injunctive relief before the end of the thirty-day cure period. The writer cautions that the court's revision of the threshold time requirements for *Yellowstone* injunctive relief may be detrimental to landlord/tenant law.

The members of Volume 70 hope that this review of New York case law and legislative developments will be of interest to both the bench and the bar.