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Editorial Board

THE SURVEY OF NEW YORK PRACTICE

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INTRODUCTION*

In this issue of Volume 69, *The Survey* analyzes recent developments

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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, New York Practice (1991)	SIEGEL
Weinstein, Korn & Miller, New York Civil Practice (1989)	WK&M
The Survey of New York Practice	THE SURVEY

in New York law. In *Schozer v. William Penn Life Insurance Co.*, the New York Court of Appeals held for the first time that an x-ray is a writing subject to the best evidence rule and its exception for unavailable originals. Under the best evidence rule, a proponent of a writing who is unable to present the original writing despite a diligent search for it may enter secondary evidence of the document. As a result of this decision by New York's highest court, a proponent of an x-ray may now offer into evidence an x-ray report recounting the contents of the unavailable original that is not in evidence.

In *People v. Michael M.*, the New York Supreme Court, Kings County, held a suppression hearing to determine whether a child's testimony in a sexual abuse case had been rendered unreliable by a suggestive interview. The defendant asserted that the child victim's testimony may have been unduly influenced by the suggestive questioning of the victim's physician. The court held that, in child sexual abuse cases, the child victim's testimony is equally prone to suggestibility as is testimony regarding defendant identification and witness hypnosis and, therefore, that a suppression hearing is warranted.

In *LaBello v. Albany Medical Center Hospital*, the Supreme Court Appellate Division, Second Department, held that the statute of limitations for an infant's medical malpractice suit for prenatal injuries begins to run at the time the malpractice is committed. The New York Court of Appeals later reversed the Third Department on the reasoning that a cause of action for prenatal injuries may only be brought if the baby is born and, therefore, the cause of action may not accrue, nor may the statute of limitations begin to run, until the child is born, irrespective of when the malpractice occurred. Therefore, the appropriate accrual date for the purposes of the statute of limitations is the child's birthdate.

The members of Volume 69 hope that this review of recent New York case law and legislative developments will be of interest to both the bench and the bar.