

# The Survey of New York Practice Table of Contents

Editorial Board

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# THE SURVEY OF NEW YORK PRACTICE

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### INTRODUCTION\*

In this second issue of Volume 64, *The Survey* examines sev-

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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    |
| D. Siegel, <i>New York Practice</i> (1978 & Supp. 1987) . . . . . | SIEGEL |

eral recent developments of significant import in New York law. In *People v. Taylor*, the Court of Appeals determined that evidence of Rape Trauma Syndrome was admissible to account for a rape victim's behavior, but that it was inadmissible if offered only as proof that a rape had occurred. The court reasoned that since evidence of Rape Trauma Syndrome is not dispositive of whether a rape was actually committed, its use solely for this purpose would be unfairly prejudicial to a defendant.

In *People v. Cade*, the Court of Appeals expanded a prosecutor's power over grand jury proceedings, by holding that a prosecutor may, without permission from the court, request a grand jury to vacate its vote for indictment to hear additional evidence. Distinguishing a vote to indict from a dismissal of charges, the *Cade* court found that the power to resubmit without court approval would neither adversely affect the integrity of the proceedings nor prejudice the defendant.

In *Tewari v. Tsoutsouras*, the Court of Appeals held that failure to submit a timely notice of medical malpractice does not warrant the sanction of dismissal. Noting that some lower New York courts had been construing improperly a failure to timely notify as a pleading default, the *Tewari* court concluded that other sanctions, such as fines, would more adequately serve the objectives of the CPLR.

Finally, the Court of Appeals decision in *Motor Vehicle Manufacturers Association v. State* is also analyzed in this issue. The *Manufacturers Association* court upheld the constitutionality of the alternative dispute mechanism contained in New York's Lemon Law, requiring a defendant manufacturer to submit to arbitration, if a plaintiff selects this mechanism of recourse.

The members of Volume 64 anticipate that *The Survey's* treatment of these recent developments in New York law will be of interest and value to the bench and bar.