

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 third issue of Volume 64, *The Survey* examines several significant developments in New York law. In *People v. Hernandez*, the Court of Appeals held that, despite a Latino defendant's presentation of a prima facie case of juror discrimination through a prosecutor's use of peremptories, the Appellate Division properly found that the prosecution had satisfied its burden of

* *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
Weinstein, Korn & Miller, <i>New York Civil Practice</i> (1988)	WK&M
<i>The Survey of New York Practice</i>	<i>The Survey</i>

overcoming the defendant's prima facie case. The Court of Appeals found that the prosecution's evidence of certain Latino jurors, statements regarding their inability to rely solely on the official translation of Spanish testimony and not defer to their own Spanish language knowledge, was a sufficiently neutral, non-discriminatory explanation for excluding those jurors.

In *CBS Inc. v. Ziff-Davis Publishing Co.*, the Court of Appeals determined that a buyer is not required to rely on a seller's express warranties in order to sue for damages resulting from a breach of those warranties. Even where the buyer openly has admitted to a disbelief in the seller's express warranties, the court concluded that the buyer's reliance on the warranties as bargained-for contractual terms was reason enough to hold a seller liable.

In *People v. Munoz*, the Court of Appeals upheld the indictment and conviction of a criminal defendant which, it was later revealed, had been obtained by an unlicensed prosecutor. Notwithstanding the rule requiring per se invalidation of indictments secured by unauthorized persons, the *Munoz* court reasoned that since the district attorney's office had jurisdiction over the subject matter, the unlicensed assistant district attorney, as an appointee of that office, had similar authority.

Finally, *The Survey* reviews the Appellate Division, Third Department's expansion of preconception tort liability for the benefit of DES granddaughters under the theory of strict products liability. The court, in *Enright v. Eli Lilly & Co.*, reasoned that the policy reasons for denying a preconception tort in negligence were lacking in a strict products liability action, and that the strong policy of providing relief to DES victims justified its holding.

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