

## The Survey of New York Practice Table of Contents

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# THE SURVEY OF NEW YORK PRACTICE

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## INTRODUCTION\*

In this third issue of Volume 63, *The Survey* examines a vari-

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\* The following abbreviations will be used uniformly through *The Survey*:

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

ety of issues recently dealt with by the New York courts. In *People v. Jones*, the Appellate Division, Second Department, held that although the trial court erred in compelling the defendant to proceed at his suppression hearing in the absence of counsel, such error did not require reversal of his convictions. Rather, the court ordered a *de novo* suppression hearing as the means of remedying any prejudice to the defendant.

In *Dioguardi v. St. John's Riverside Hospital*, the Appellate Division, Second Department, restricted a party's right to depose a nonparty witness. Interpreting CPLR 3101(a)(4), the court held that a defendant in a medical malpractice action could not depose the plaintiff's treating physician absent an affirmative showing that the deposition might yield information not already available from the medical records or other sources.

In *McGowan v. McGowan*, another case from the Appellate Division, Second Department, the court expanded the definition of "marital property" in the Domestic Relations Law to include an educational degree acquired during the marriage. The court analogized such an educational degree to a professional license attained during the marriage and held that, like a license, a degree is subject to equitable distribution.

Finally, this issue examines the decision of the Court of Appeals in *State Farm Mutual Automobile Insurance Company v. Amato*. The court held that a police vehicle was not a "motor vehicle" for purposes of section 3420(f) of the Insurance law, thereby relieving New York City of the obligation to provide such vehicles with uninsured motorist coverage.

It is hoped that the analysis of these issues in *The Survey* will be of interest and assistance to the New York practitioner.

#### DEVELOPMENTS IN THE LAW

*Appellate Division holds defendant not entitled to conviction re-*

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Estates, Powers and Trusts Law (McKinney) .....	EPTL
General Business Law (McKinney) .....	GBL
General Municipal Law (McKinney) .....	GML
General Obligations Law (McKinney) .....	GOL
D. Siegel, New York Practice (1978 & Supp. 1987) .....	SIEGEL
Weinstein, Korn & Miller, New York Civil Practice (1988) .....	WK&M
<i>The Survey of New York Practice</i> .....	<i>The Survey</i>