

## The Survey of New York Law Table of Contents

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# THE SURVEY OF NEW YORK PRACTICE

## TABLE OF CONTENTS

### DEVELOPMENTS IN THE LAW

*Under a contract containing a broad arbitration clause and a provision specifically authorizing either party to seek injunctive relief without waiving other remedies, the procurement of a court ordered preliminary injunction does not waive the right to arbitrate issues on which the injunctive relief is based . . . . .* 377

### CIVIL PRACTICE LAW AND RULES

*CPLR 213(1): Six-year “catch-all” statute of limitations provision is applicable to a claim under the Taylor Law alleging the breach of a public union’s duty of fair representation . . . . .* 383

### ESTATES, POWERS AND TRUSTS LAW

*EPTL § 13-3.3: Trustee as beneficiary denied right to receive proceeds of insurance policy due to decedent’s failure to execute trust agreement prior to designation of beneficiary . . . . .* 391

### INTRODUCTION\*

In this second issue of Volume 62, *The Survey* examines sev-

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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
Estates, Powers and Trusts Law (McKinney) . . . . .	EPTL
General Business Law (McKinney) . . . . .	GBL
General Municipal Law (McKinney) . . . . .	GML

eral recent decisions affecting New York practice. In *Assael v. Assael*, the Appellate Division, First Department, determined that a plaintiff did not waive the right to compel arbitration of a corporation's dissolution by seeking a preliminary injunction when the contract that provided for the arbitration also specifically allowed each party to seek injunctive relief without waiving other remedies.

In *Baker v. Board of Education*, a unanimous Court of Appeals held the applicable statute of limitations for a cause of action for breach of the duty of fair representation against a public union was six years. In applying the six-year catch-all provision of CPLR 213(1), the Court of Appeals rejected the lower court's determination that the action was governed by the six-month federal statute of limitations period that had previously been applied in similar actions against *private* unions.

Finally, in *In re Stein*, the Appellate Division, Second Department, delineated the circumstances in which the proceeds of an insurance policy may properly be received by a trustee-beneficiary. Payment is proper, held the court, only if the trust agreement predated the designation of the beneficiary under the insurance policy and that trust agreement was identified in the beneficiary designation.

The members of Volume 62 hope that the New York bench and bar find the cases analyzed in *The Survey* to be of interest and value.

#### DEVELOPMENTS IN THE LAW

*Under a contract containing a broad arbitration clause and a provision specifically authorizing either party to seek injunctive relief without waiving other remedies, the procurement of a court ordered preliminary injunction does not waive the right to arbitrate issues on which the injunctive relief is based*

Arbitration is a system for the resolution of contractual disputes in which the parties create the forum and appoint impartial

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General Obligations Law (McKinney) .....	GOL
D. Siegel, New York Practice (1978 & Supp. 1987) .....	SIEGEL
Weinstein, Korn & Miller, New York Civil Practice (1982) .....	WK&M
<i>The Survey of New York Practice</i> .....	<i>The Survey</i>