

## CPLR 328: New Rule Allows New York Courts to Assist in Serving Out-of-State Judicial Documents

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or an assignment of the cause of action by a non-resident to a resident,<sup>64</sup> were sufficient to ensure that the doctrine would be no bar.

In *Slaughter*, dissenting Justice McGivern implied that the majority's true motivation in opening up the New York courts to this plaintiff was its belief that he would not get a fair trial in North Carolina.<sup>65</sup> Such a position is contrary to the policy embodied in *Silver*, and encourages forum shopping and all the injustice growing out of that practice. Underlying a decision of whether or not to apply the doctrine of *forum non conveniens* must be the assumption that the quality of justice in all jurisdictions is equal. The refusal to apply it on the basis of a skepticism about that assumption is contrary to the *Silver* mandate that "justice, fairness and convenience" be the controlling considerations.

*CPLR 328: New rule allows New York courts to assist in serving out-of-state judicial documents.*

The Judicial Conference has added Rule 328 to the CPLR.<sup>66</sup> The new rule is an adoption of section 2.04 of the Uniform Interstate and International Procedure Act, and is designed to provide assistance to out-of-state courts and litigants in serving documents on persons domiciled or found within the state. It provides that the Supreme Court or the County Courts may order such service upon application by an "interested person"<sup>67</sup> or when presented with letters rogatory issued by an out-of-state court. The rule specifically states that service of out-of-state papers may be made without court order. It further provides that service pursuant to court order under the new rule will not automatically make a judgment rendered in a foreign judicial proceeding valid and enforceable in New York. The Judicial Conference recommended this change in recognition of the increasing need for interstate and international cooperation in the growing number of cases having "cosmopolitan aspects."<sup>68</sup>

#### ARTICLE 5 — VENUE

*CPLR 503(f): New venue requirements in "consumer credit transactions."*

To combat abuses of venue provisions heretofore prevalent in actions based on consumer credit sales, the Legislature has enacted a

<sup>64</sup> See, e.g., *Wagner v. Braunsberg*, 5 App. Div. 2d 564, 173 N.Y.S.2d 525 (1st Dep't 1958).

<sup>65</sup> 41 App. Div. 2d at 811, 342 N.Y.S.2d at 182.

<sup>66</sup> JUDICIAL CONFERENCE OF THE STATE OF NEW YORK, REPORT TO THE 1973 LEGISLATURE IN RELATION TO THE CIVIL PRACTICE LAW AND RULES AND PROPOSED AMENDMENTS ADOPTED PURSUANT TO SECTION 229 OF THE JUDICIARY LAW 76 (1973).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 77.