

## CPLR 7503(c): Legislature Lengthens the Period Within Which a Party May Apply for a Stay of Arbitration

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nically legal execution sales. It serves notice that the courts will not sit by and permit a judgment creditor to obtain an undeserved windfall at the debtor's expense. The *Wandschneider* remedy will be of greatest assistance to the low income consumer who is the worst victim of abuses of the collection process and is the least likely to take advantage of his legal rights.<sup>154</sup> This decision may give him a later stage at which to intervene. The *Wandschneider* procedure has the additional advantage of giving the judgment creditor an equitable means of enforcing his judgment while protecting the debtor from inequities.

#### ARTICLE 75 — ARBITRATION

*CPLR 7503(c): Legislature lengthens the period within which a party may apply for a stay of arbitration.*

Pursuant to the Judicial Conference's recommendation,<sup>155</sup> the Legislature has made several changes in CPLR 7503(c) which will ameliorate some of its harshness.<sup>156</sup> Most importantly, it has extended from ten to twenty days the time within which a party is allowed to move to stay arbitration after receipt of a demand for arbitration or a notice of intention to arbitrate. This time frame remains short enough to permit expeditious settlement of commercial disputes while allowing a more reasonable time to respond.<sup>157</sup> Two other changes codify case law constructions of the subdivision.<sup>158</sup> The first authorizes service of a notice of application to stay arbitration on the adverse party's attorney provided that the attorney's name appeared on the notice of intention to arbitrate or the demand for arbitration. The second expressly provides that service of the notice is timely if mailed within the twenty-day period. On its own initiative, the Legislature added a clause making null and void any provision in an arbitration agreement purporting to waive the right to apply for a stay. Lastly, the subdivision was changed to specifically encompass a "demand for arbitration" as well as a "notice of intention to arbitrate."

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<sup>154</sup> See 7B MCKINNEY'S CPLR 5236, *supp. commentary* at 153 (1965).

<sup>155</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 59-63 (1973) [hereinafter JUDICIAL CONFERENCE REPORT].

<sup>156</sup> L. 1973, ch. 1028, at 1883, *eff. Sept. 1, 1973*.

<sup>157</sup> See JUDICIAL CONFERENCE REPORT 61.

<sup>158</sup> *Id.* at 62, *citing* Matter of Knickerbocker Ins. Co., 28 N.Y.2d 57, 268 N.E.2d 758, 320 N.Y.S.2d 12 (1971), *discussed in* *The Quarterly Survey*, 45 ST. JOHN'S L. REV. 500, 531 (1971).