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CCA 1804: Substantial Justice Mandate Limited by Rules of Substantive Law

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In *Slater v. Slater*,²⁵⁶ plaintiff sought summary judgment in an action to recover support payments directed in a Nevada divorce decree. The New York City Civil Court, New York County, held that it had jurisdiction in the action subject to the monetary limitation upon its judgments.²⁵⁷ The basis of this conclusion was the absence of an express statement of exclusivity of jurisdiction in the Family Court Act.²⁵⁸

CCA 1804: Substantial justice mandate limited by rules of substantive law.

Small-claims courts are mandated under CCA 1804 to render "substantial justice between the parties according to rules of substantive law . . ." While the court is bound by substantive law, however, it is not restricted "by statutory provisions or rules of practice, procedure, pleading or evidence . . ." This freedom of action expedites the small-claims process and enables litigants to represent themselves before a flexible forum.

An alleged exercise of this freedom by a small-claims court, in *Bierman v. City of New York*,²⁵⁹ was arrested by the Appellate Term of the First Department, in *Bierman v. Consolidated Edison Co. of New York*.²⁶⁰ The appellate court held that the lower court's departure from the traditional rules of negligence in adopting a rule of strict liability without fault was error.²⁶¹ Whether the rule of strict liability should be adopted, the court noted, is a matter for determination by the Legislature or the Court of Appeals, not by courts of original jurisdiction. For,

[S]tability and certainty in the law requires adherence to . . . the decisions of the Court of Appeals . . . by all lower courts.²⁶²

Mrs. Bierman had brought an action for \$300 in compensation for

²⁵⁶ 65 Misc. 2d 322, 317 N.Y.S.2d 638 (N.Y.C. Civ. Ct. N.Y. County 1971).

²⁵⁷ *Id.* at 323, 317 N.Y.S.2d at 640.

²⁵⁸ *Id.* 317 N.Y.S.2d at 639.

²⁵⁹ 60 Misc. 2d 497, 302 N.Y.S.2d 696 (N.Y.C. Civ. Ct. N.Y. County 1969), *discussed in The Quarterly Survey*, 44 ST. JOHN'S L. REV. 532, 584-85 (1970); *1970 Survey of New York Law*, 22 SYRACUSE L. REV. 159-60 (1971).

²⁶⁰ 66 Misc. 2d 237, 320 N.Y.S.2d 331 (App. T. 1st Dep't 1970).

²⁶¹ *Id.* at 238, 320 N.Y.S.2d at 332.

²⁶² *Id.*, *citing* *Thomas v. Hendrickson Bros., Inc.*, 30 App. Div.2d 730, 731, 291 N.Y.S.2d 57, 58-59 (3d Dep't 1968); *Brooks v. Horning*, 27 App. Div. 2d 874, 875-76, 278 N.Y.S.2d 629, 632-34 (3d Dep't 1967); *MacGilfrey v. Hotaling*, 26 App. Div. 2d 977, 978, 274 N.Y.S.2d 850, 852 (3d Dep't 1966); *Canter v. American Cyanamid Co.*, 12 App. Div. 2d 691, 692, 207 N.Y.S.2d 745, 746 (3d Dep't 1960).

damages flowing from flooding caused by the rupture of a water main which was being repaired by employees of Consolidated Edison. Although negligence was not proven, the trial judge allowed recovery, against the City and Consolidated Edison, on the ground that substantial justice in these circumstances demanded application of the strict liability rule.²⁶³ The appellate term reversed the judgment regarding Consolidated Edison.²⁶⁴

Strict liability in tort is a question of substantive law. Hence, the Appellate Term properly recognized that CCA 1804 bound the court to precedent.²⁶⁵ The decision of the lower court in *Bierman* is consistent with substantial justice, but the small-claims court is obliged to administer "substantial justice . . . according to rules of substantive law . . ." If substantial justice is not in accord with substantive law, the former must yield.

GENERAL MUNICIPAL LAW

GML 50-e: Section superseded by subsequent special enactment.

Conflict between a general law and a subsequently enacted special law is resolved in favor of the special law.²⁶⁶ Illustrative of this principle is *Reinhart v. Troy Parking Authority*,²⁶⁷ wherein the Appellate Division, Third Department, affirming the Supreme Court, Rensselaer County, held that the time requirement of title 8 of the Public Authority Law, a 1960 special enactment, superseded section 50-e of the General Municipal Law. Plaintiff had filed his notice of claim with the proper authority within six months from the accrual of his action but more than ninety days thereafter.²⁶⁸ This constituted timely filing under the controlling statute.

²⁶³ 60 Misc. 2d at 499, 302 N.Y.S.2d at 698.

The rule of substantive law says that Mrs. Bierman may not recover because she cannot prove negligence on the part of the city or of Consolidated Edison. Is this substantial justice? Only a very backward lawyer could think so.

Id. at 498, 302 N.Y.S.2d at 697.

²⁶⁴ 66 Misc. 2d at 238, 320 N.Y.S.2d at 333. It should be noted that the plaintiff still received a judgment against a supposedly solvent party, *i.e.*, New York City.

²⁶⁵ Courts of original jurisdiction do not make the law but follow it as developed by the appellate court decisions, even though the controlling precedents conflict with the views of the court of original jurisdiction, or are admittedly erroneous.

¹ CARMODY-WAIT 2d § 2:58 (1965).

²⁶⁶ N.Y. CONST. LAWS §§ 397, 398 (McKinney 1971); *Matter of Seligman v. Wickham*, 33 App. Div. 2d 840, 305 N.Y.S.2d 951 (3d Dep't) (mem.) *aff'd*, 27 N.Y.2d 993, 267 N.E.2d 482, 318 N.Y.S.2d 747 (1970) (mem.); *East End Trust Co. v. Otten*, 255 N.Y. 283, 174 N.E.2d 655 (1931).

²⁶⁷ 36 App. Div. 2d 654, 318 N.Y.S.2d 852 (3d Dep't 1971) (mem.).

²⁶⁸ *Id.* at 654, 318 N.Y.S.2d at 853.