

The Quarterly Survey of New York Practice Table of Contents

St. John's Law Review

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

St. John's Law Review (1969) "The Quarterly Survey of New York Practice Table of Contents," *St. John's Law Review*: Vol. 44 : No. 1 , Article 8.

Available at: <https://scholarship.law.stjohns.edu/lawreview/vol44/iss1/8>

This Recent Development in New York Law is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact lasalar@stjohns.edu.

THE QUARTERLY SURVEY OF NEW YORK PRACTICE

TABLE OF CONTENTS

ARTICLE 1—SHORT TITLE; APPLICABILITY AND DEFINITIONS	
<i>CPLR 107: Judicial praise for official forms.</i>	137
ARTICLE 3—JURISDICTION AND SERVICE, APPEARANCE AND CHOICE OF COURT	
<i>CPLR 302: Jurisdiction not obtained in defamation action because defamation did not arise from transaction of business.</i>	138
ARTICLE 10—PARTIES GENERALLY	
<i>CPLR 1021: Motion to dismiss for failure to substitute denied pending the appearance of the adversary.</i>	138
ARTICLE 11—POOR PERSONS	
<i>CPLR 1102(d): Payment of publication expenses arising from indigent's divorce action required by equal protection clause.</i>	139
ARTICLE 31—DISCLOSURE	
<i>CPLR 3101(d): Identity of witnesses learned subsequent to happening of occurrence held to be material prepared for litigation.</i>	140
<i>CPLR 3101(d): Conflict between departments over burden of proof relating to material prepared for litigation.</i>	142
ARTICLE 32—ACCELERATED JUDGMENT	
<i>CPLR 3213: Appellate division requires pleadings in appeal of action based upon an instrument for the payment of money.</i>	144
<i>Collateral Estoppel: Glaser v. Huetten overruled.</i>	144
<i>CPLR 3216: Departments divided on rule's constitutionality.</i>	151
<i>Collateral Estoppel: Third department abandons unity requirement.</i>	153
ARTICLE 52—ENFORCEMENT OF MONEY JUDGMENTS	
<i>CPLR 5201: Future rents not subject to attachment.</i>	154
<i>CPLR 5201: Bonuses earned will be prorated for purposes of determining amount available for satisfaction of judgment.</i>	155
ARTICLE 55—APPEALS GENERALLY	
<i>CPLR 5513(a): Time to appeal begins to run when service of judgment with notice of entry is made.</i>	156
ARTICLE 75—ARBITRATION	
<i>CPLR 7503(c): Ten day period within which a party may apply to stay arbitration construed as statute of limitations by first department.</i>	157
<i>CPLR 7503(c): Fourth department upholds effectiveness of service upon a party's attorney for a stay of arbitration.</i>	158
ARTICLE 78—PROCEEDING AGAINST BODY OR OFFICER	
<i>CPLR 7804(g): First department affirms findings in an Article 78 proceeding but substitutes a "more appropriate" penalty.</i>	159
DOMESTIC RELATIONS LAW	
<i>DRL § 250: Presumption of domicile held not applicable to bilateral Mexican divorce.</i>	160
CRIMINAL CONTEMPT PROCEEDINGS	
<i>Contempt: Right to trial by jury refused in criminal contempt proceedings against public employees union.</i>	163

*Introduction**

This issue of the *Survey* contains several noteworthy decisions. Perhaps foremost among them is *Schwartz v. Public Administrator* reported under Article 32. The Court of Appeals has "officially" overruled the *Glaser v. Huette* doctrine which has received continued attention in the *Survey*; accordingly, this case has been given a somewhat more extensive treatment than other cases reported herein. Also reported under Article 32 is the continuing conflict among departments over the constitutionality of CPLR 3216. The reader's attention is further specifically directed to the *Survey* section on the Domestic Relations Law which highlights a case wherein DRL § 250 was held to be inapplicable to a bilateral Mexican divorce.

The *Survey* sets forth in each installment those cases which are deemed to make the most significant contribution to New York's procedural law. Due to limitations of space, however, many other less important, but, nevertheless, significant cases cannot be included. While few cases are exhaustively discussed, it is hoped that the *Survey* accomplishes its basic purpose, viz., to key the practitioner to significant developments in the procedural law of New York.

The Table of Contents is designed to direct the reader to those specific areas of procedural law which may be of importance to him. The various sections of the CPLR which are specifically treated in the cases are listed under their respective titles.

* The following abbreviations will be used uniformly throughout the *Survey*:

New York Civil Practice Law and Rules	CPLR
New York Civil Practice Act	CPA
New York Rules of Civil Practice	RCP
New York City Civil Court Act	CCA
Uniform District Court Act	UDCA
Uniform City Court Act	UCCA
Real Property Actions and Proceedings Law	RPAPL
Domestic Relations Law	DRL

Extremely valuable in understanding the CPLR are the five reports of the Advisory Committee on Practice and Procedure. They are contained in the following legislative documents and will be cited as follows:

1957 N.Y. LEG. DOC. NO. 6(b)	FIRST REP.
1958 N.Y. LEG. DOC. NO. 13	SECOND REP.
1959 N.Y. LEG. DOC. NO. 17	THIRD REP.
1960 N.Y. LEG. DOC. NO. 20	FOURTH REP.

1961 FINAL REPORT OF THE ADVISORY COMMITTEE

ON PRACTICE AND PROCEDURE	FINAL REP.
---------------------------------	------------

Also valuable are the two joint reports of the Senate Finance and Assembly Ways and Means Committees:

1961 N.Y. LEG. DOC. NO. 15	FIFTH REP.
1962 N.Y. LEG. DOC. NO. 8	SIXTH REP.