

NEW YORK STATE BAR ASSOCIATION
COMMITTEE ON CIVIL PRACTICE LAW AND RULES

Telephonic Meeting

Noon Friday, June 13, 1997

Results

Comments, additions, changes contact [Paul H. Aloe](#)

[CPLR Committee Comments on Sanctions](#) Members of the Committee have until 6/17/97 to fax or e-mail comments to [Paul H. Aloe](#), Committee Chair. We have received no comments as of 6/17/97 and thus have issued the report.

[S3602](#) OCA Bill would amend CPLR 3214 to provide that summary judgment stay of disclosure last only 120 days and does not apply to discovery noticed before the notice of motion is served. Committee disapproves. Report to be prepared by [Robert Knapp](#)

[S4553](#) VOLKER (at request of OCA Advisory Committee) Rpl and replaced CPLR 306-b. Bill would replace current system within one where proof of service would be filed within 120 days of the filing of the summons, but the court could extend the period for good cause shown or in the interest of justice. Unserved defendants would only be dismissed "on motion." There is a [Sponsor's Memo](#) prepared by the OCA Advisory Committee. Committee Disapproves. Report to be prepared by [Sharron Gerstmann](#)

[A612](#) Kaufman. Amends CPLR 308 CPLR Permits service of process on the doorman or concierge of a multiple dwelling to satisfy delivery requirement for delivery and mail service under. Starred on Calender in Assembly. [Sponsor's Memorandum](#) Report was issued by Commercial and Federal Litigation Section. Committee Disapproves. Report to be Prepared by Richard [Laudor](#)

[A1156](#) OCA Bill. Amends CPLR 4517 to expand the permitted use of prior testimony at trial; allows such permitted testimony to be used for any purpose by any party who is adversely interested in the prior testimony when the prior testimony is offered into evidence. Bill has [sponsor's memorandum](#) (See A. 7624 of 1996) No position taken. Report to be prepared by [Lipshie](#)

[S5326](#) VOLKER -- Rpld & add R3216 rpld & add R3404, CPLR -- OCA Advisory Committee Program Bill. Provides that if a party unreasonably neglects to proceed in an action in which no note of issue has been filed, the court may take use of several options to address the problem, namely striking the offending party's pleadings in whole or in part, dismissing the action in whole or in part, issuing a default judgment or directing an inquest. Judiciary Bill. Rules Com [Current Status Sponsor's Memo](#) (Mooney). [Interesting recent case.](#) Bill approved. Report to be prepared by Jill Nagy

[A6674](#) amends CPLR 4517, prior testimony by unavailable witness, by expanding the circumstances in which the prior testimony of an absent witness could be used to include, in an action involving domestic violence, inability to procure the attendance of the witness through "process or other reasonable means." The bill also adds a new subsection 2 to CPLR 4517 which would incorporate into the CPLR Federal Rule of Evidence 804(b)(5) , the residual exception to the hearsay rule available if a statement has

"sufficient guarantees of trustworthiness" but limited to actions involving domestic violence. See [Sponsor's Memo](#) Committee to consider [draft report](#) by [Jim Blair](#) Report Approved

[S2211/A2620](#) CPLR Motion Practice Bill -- Status Report and [Comments](#) from OCA Advisory Committee

- Status Report on OCA Reargument Bill. [S2345/A3772](#) -- [S3617 Report of Judge Frazee](#) (Report No. 47). [Changes suggested](#) to bill as a result of meeting on June 9, 1997 between Judge Frazee and Richard Rifkin of OCA Advisory Committee (Sponsor of the bill)