

CHAPTER 693

AN ACT to establish a civil court for the city of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one Became a law April 24, 1962, with the approval of the Governor.

Passed, by a majority vote, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

NEW YORK CITY CIVIL COURT ACT

1. Organization.
2. Jurisdiction.
3. Venue.
4. Summons.
7. Mandates.
8. Provisional remedies.
9. Pleadings.
10. Motions.
11. Disclosure.
12. Subpoenas.
13. Trial.
14. Judgment.
15. Execution.
16. Marshals.
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- 18-A. Commercial claims.
19. Costs and fees.
21. General.
22. Transition.

ARTICLE 1

ORGANIZATION

- Section 101. Short title.
102. Court established.
- 102-a. Vacancies and composition of court.
103. Powers of appellate division.

- 104. Expenses of court.
- 109. Clerk of the court.
- 110. Housing part.

§ 101. Short title. This act shall be known as the New York city civil court act, and may be cited as "CCA".

§ 102. Court established. The civil court of the city of New York is hereby established as a single city-wide court, as provided by sections one and fifteen of article six of the constitution; it shall be a part of the unified court system for the state, and a court of record with such power and jurisdiction as are herein or elsewhere provided by law. The court in each county of the city shall have an official seal on which shall be engraved the arms of the state, the name of the court, and the county.

§ 102-a. Vacancies and composition of court. 1. The civil court of the city of New York shall consist of one hundred thirty-one judges, all of whom shall be residents of the city of New York. No person may serve in the office of judge of this court after the effective date of this section unless he or she has been admitted to practice law in this state for at least ten years as of the date he or she commences the duties of office.

2. The twenty-five additional judges of the civil court of the city of New York authorized on June first, nineteen hundred sixty-eight by chapter nine hundred eighty-seven of the laws of nineteen hundred sixty-eight shall be elected in and from the residents of the following counties in the indicated numbers: from the county of New York, seven; from the county of Kings, seven; from the county of Queens, six; from the county of Bronx, four; and from the county of Richmond, one. Such additional judges shall receive the same compensation as the existing judges of the civil court of the city of New York. The eleven additional judges of the civil court of the city of New York authorized by this

section shall be chosen by the electors of the counties included within the city of New York from districts within such counties as shall be established by law.

2-a. Two additional judges of the civil court of the city of New York shall be elected in and from the residents of the following counties in the indicated numbers: from the county of New York, one; from the county of Bronx, one. Such additional judges shall receive the same compensation as the existing judges of the civil court of the city of New York and shall be elected countywide within the city of New York.

2-b. Twelve additional judges of the civil court of the city of New York shall be elected in and from the residents of the following counties in the indicated numbers: from the county of New York, three; from the county of Bronx, three; from the county of Kings, three; and from the county of Queens, three. Such additional judges shall receive the same compensation as the existing judges of the civil court of the city of New York and shall be elected countywide within the city of New York.

2-c. Ten additional judges of the civil court of the city of New York shall be elected in and from the residences of the following counties in the indicated numbers:

From the county of Bronx, two, one to be elected from the first municipal court district and one to be elected from the second municipal court district;

From the county of Kings, three, one to be elected from the fourth municipal court district, one to be elected from the sixth municipal court district and one to be elected from the seventh municipal court district;

From the county of New York, two, one to be elected from the third municipal court district and one to be elected from the seventh municipal court district;

From the county of Queens, two, one to be elected from the second municipal court district and one to be elected from the fourth municipal court district; and

From the county of Richmond, one, to be elected from the first municipal court district.

2-d. Ten additional judges of the civil court of the city of New York shall be elected in and from the residences of the following counties in the indicated numbers:

From the county of Bronx, two, one to be elected from the first municipal court district and one to be elected from the second municipal court district;

From the county of Kings, three, one to be elected from the fourth municipal court district, one to be elected from the sixth municipal court district and one to be elected from the seventh municipal court district;

From the county of New York, two, one to be elected from the first municipal court district and one to be elected from the seventh municipal court district;

From the county of Queens, two, one to be elected from the second municipal court district and one to be elected from the fourth municipal court district; and

From the county of Richmond, one, to be elected from the first municipal court district.

3. A vacancy occurring otherwise than by the expiration of term in the office of judge of the civil court of the city of New York shall be filled by the mayor of the city of New York by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

4. Vacancies in the office of judge of the civil court of the city of New York occurring by the expiration of the term on the last day of December, nineteen hundred seventy-eight of a justice elected or appointed to the city court of the city of New York or the municipal court of the city of New York, who was continued as a judge of the civil court pursuant to the provisions of subdivision c of section thirty-five of article six of the constitution, or of their successors, shall be filled for a full term at the general election to be held in November, nineteen hundred seventy-eight. Judges to fill such vacancies shall be chosen by the electors of the county or district from which the judge whose term expires on December thirty-first, nineteen hundred seventy-eight or his predecessor, was elected or appointed.

§ 103. Powers of appellate division. In addition to the powers conferred upon them in this act and in any other provision of law, all the powers heretofore conferred by law upon the chief justice of the city court of the city of New York and upon the president justice and board of justices of the municipal court of the city of New York are vested in the appellate divisions of the supreme court in the first and second judicial departments. As provided by section twenty-eight of article six of the constitution and article seven-a of the judiciary law, the appellate divisions of the supreme court in the first and second judicial departments shall supervise the administration and operation of the court in their respective departments, either separately or jointly; provided, however, that if the administrative board shall so direct, a single administrative judge shall be designated by the appellate divisions or the administrative board as provided by law to administer and regulate the operations of the court.

§ 104. Expenses of court. All salaries of both judicial and non-judicial personnel of the court and all other expenses of the court whatsoever shall be a charge upon the city of New York. As provided in subdivision d of section twenty-nine of article six of the constitution, the governing body of the city shall annually include in its final estimate such sums as may be necessary to pay such salaries and

expenses.

§ 109. Clerk of the court. There shall be a chief clerk of the court. The chief clerk and such other non-judicial personnel as shall be authorized by rule or order of court shall each have the power to administer oaths, take acknowledgments and sign the process or mandate of the court.

§ 110. Housing part. (a) A part of the court shall be devoted to actions and proceedings involving the enforcement of state and local laws for the establishment and maintenance of housing standards, including, but not limited to, the multiple dwelling law and the housing maintenance code, building code and health code of the administrative code of the city of New York, as follows:

(1) Actions for the imposition and collection of civil penalties for the violation of such laws.

(2) Actions for the collection of costs, expenses and disbursements incurred by the city of New York in the elimination or correction of a nuisance or other violation of such laws, or in the removal or demolition of any dwelling pursuant to such laws.

(3) Actions and proceedings for the establishment, enforcement or foreclosure of liens upon real property and upon the rents therefrom for civil penalties, or for costs, expenses and disbursements incurred by the city of New York in the elimination or correction of a nuisance or other violation of such laws.

(4) Proceedings for the issuance of injunctions and restraining orders or other orders for the enforcement of housing standards under such laws.

(5) Actions and proceedings under article seven-A of the real property actions and proceedings law, and all summary proceedings to recover possession of residential premises to remove tenants therefrom, and to render judgment for rent due, including without limitation those cases in which a tenant alleges a defense under section seven hundred fifty-five of the real property actions and proceedings law, relating to stay or proceedings or action for rent upon failure to make repairs,

section three hundred two-a of the multiple dwelling law, relating to the abatement of rent in case of certain violations of section D26-41.21 of such housing maintenance code.

(6) Proceedings for the appointment of a receiver of rents, issues and profits of buildings in order to remove or remedy a nuisance or to make repairs required to be made under such laws.

(7) Actions and proceedings for the removal of housing violations recorded pursuant to such laws, or for the imposition of such violation or for the stay of any penalty thereunder.

(8) Special proceedings to vest title in the city of New York to abandoned multiple dwellings.

(9) The city department charged with enforcing the multiple dwelling law, housing maintenance code, and other state and local laws applicable to the enforcement of proper housing standards may commence any action or proceeding described in paragraphs one, two, three, four, six and seven of this subdivision by an order to show cause, returnable within five days, or within any other time period in the discretion of the court. Upon the signing of such order, the clerk of the housing part shall issue an index number.

(b) On the application of any city department, any party, or on its own motion, the housing part of the civil court shall, unless good cause is shown to the contrary, consolidate all actions and proceedings pending in such part as to any building.

(c) Regardless of the relief originally sought by a party the court may recommend or employ any remedy, program, procedure or sanction authorized by law for the enforcement of housing standards, if it believes they will be more effective to accomplish compliance or to protect and promote the public interest; provided in the event any such proposed remedy, program or procedure entails the expenditure of monies appropriated by the city, other than for the utilization and deployment of personnel and services incidental thereto, the court shall give notice of such proposed remedy, program or procedure to the city department charged with the enforcement of local laws relating to housing maintenance and shall not employ such proposed remedy, program or procedure, as the case may be, if such department shall advise the court in writing within the time fixed by the court, which shall not be less than fifteen days after such notice has been given, of the reasons

such order should not be issued, which advice shall become part of the record. The court may retain continuing jurisdiction of any action or proceeding relating to a building until all violations of law have been removed.

(d) In any of the actions or proceedings specified in subdivision (a) of this section and on the application of any party, any city department or the court, on its own motion, may join any other person or city department as a party in order to effectuate proper housing maintenance standards and to promote the public interest. In addition to any other application of its powers under this subdivision, the court may, on the application of any party or on its own motion, join as a party the department of social services of the city of New York in any action or proceeding in which the payment or non-payment of rent by a recipient of or applicant for public assistance pursuant to the social services law is at issue, and the court may join as a party the division of adult protective services of the city of New York in any such action or proceeding, where appropriate.

(e) Actions and proceedings before the housing part shall be tried before civil court judges, acting civil court judges, or housing judges. Housing judges shall be appointed pursuant to subdivision (f) of this section and shall be duly constituted judicial officers, empowered to hear, determine and grant any relief within the powers of the housing part in any action or proceeding except those to be tried by jury. Such housing judges shall have the power of judges of the court to punish for contempts. Rules of evidence shall be applicable in actions and proceedings before the housing part. The determination of a housing judge shall be final and shall be entered and may be appealed in the same manner as a judgment of the court; provided that the assignment of actions and proceedings to housing judges, the conduct of the trial and the contents and filing of a housing judge's decision, and all matters incidental to the operation of the housing part, shall be in accordance with rules jointly promulgated by the first and second departments of the appellate division for such part.

(f) The housing judges shall be appointed by the administrative judge from a list of persons selected annually as qualified by training, interest, experience, judicial temperament, ability to handle a caseload involving self-represented litigants and knowledge of federal, state and

local housing laws and programs by the advisory council for the housing part. The list of persons who have been approved by such advisory council, whether or not appointed to such judicial position, shall be deemed public information and be published in the city record immediately after such list is submitted to the administrative judge. The annual salary of a housing judge shall be one hundred fifteen thousand four hundred dollars.

(g) The advisory council for the housing part shall be composed of three members representative of real estate owners or lessors, including the chair of the New York city housing authority; three members representative of tenants' organizations; and two members representative of each of the following: civic groups, bar associations and the public at large. Such members shall be appointed by the administrative judge, with the approval of the presiding justices of the first and second departments of the appellate division. Except for the member representing the housing authority, the members of the advisory council shall be appointed for non-renewable terms of three years. In addition the mayor of the city of New York shall appoint one member to serve at his or her pleasure and the commissioner of housing and community renewal shall be a member.

(h) The advisory council shall meet at least four times a year, and on such additional occasions as they may require or as may be required by the administrative judge. Members shall receive no compensation. Members shall visit the housing part from time to time to review the manner in which the part is functioning, and make recommendations to the administrative judge and to the advisory council. A report on the work of the part shall be prepared annually and submitted to the administrative judge, the administrative board of the judicial conference, the majority and minority leaders of the senate and assembly, the governor, the chairpersons of the judiciary committee in the senate and assembly and the mayor of the city of New York by the thirty-first day of January of each year.

(i) Housing judges shall have been admitted to the bar of the state for at least five years, two years of which shall have been in active practice. Each housing judge shall serve full-time for five years. Reappointment shall be at the discretion of the administrative judge and on the basis of the criteria set forth for selection by the advisory

council in subdivision (f) of this section, performance, competency and results achieved during the preceding term, and the judge's allocation of stipulations to self-represented litigants and the judge's compliance with section seven hundred forty-six of the real property actions and proceedings law.

(k) Unless a party requests a manual stenographic record by filing a notice with the clerk two working days prior to the date set for an appearance before the court, hearings shall be recorded mechanically. A party may request a transcript from a mechanical recording. Any party making a request for a copy of either a mechanically or manually recorded transcript shall bear the cost thereof and shall furnish a copy of the transcript to the court, and to the other parties.

(l) Any city department charged with enforcing any state or local law applicable to the enforcement of proper housing standards may be represented in the housing part by its department counsel in any action or proceeding in which it is a party. A corporation which is a party may be represented by an officer, director or a principal stockholder.

(m) The service of process in any of the actions or proceedings specified in subdivision (a) which are brought under the housing maintenance code of the administrative code of the city of New York shall be made as herein provided:

(1) Service of process shall be made in the manner prescribed for actions or proceedings in this court, except where the manner of such service is provided for in the housing maintenance code of the administrative code of the city of New York, such service may, as an alternative, be made as therein provided.

(2) Where the manner of service prescribed for actions or proceedings in this court includes delivery of the summons to a person at the actual place of business of the person to be served, such delivery may be made alternatively to a person of suitable age and discretion at the address registered with the department charged with the enforcement of local laws relating to housing maintenance pursuant to article forty-one of such code, hereinafter referred to as the "registered address".

(3) Where the manner of service prescribed for actions or proceedings in this court includes affixing the summons to the door of the actual place of business of the person to be served, the summons may, as an alternative, be posted in a conspicuous place on either the premises

specified in the summons or the registered address.

(4) Where the manner of service for actions or proceedings in this court includes mailing the summons to the person to be served at his last known residence, the summons may, as an alternative, be mailed to the registered address; however, if the person to be served has not registered as required by article forty-one of such housing maintenance code, such summons may, as an alternative, be mailed to an address registered in the last registration statement filed with such department other than the address of the managing agent of the premises and to the last known address of the person to be served.

(5) Where the manner of service for actions or proceedings in this court includes mailing the summons to the person to be served at his last known residence, if the person to be served is a corporation and if either: (i) an officer of such corporation, (ii) the managing agent of such corporation for the premises involved in the suit or (iii) a person designated by such corporation to receive notices in its behalf, other than the secretary of state, has been named a party to the suit, the summons may, as an alternative, be mailed to the registered address of such corporation or, if such corporation has not registered as required by such code, to the address of such corporation set forth in a document filed or recorded with a governmental agency.

(6) A copy of the summons with proof of service shall be filed in the manner provided in section four hundred nine, except that such filing shall be made with the clerk of the housing part in the county in which the action is brought.

(n) Nothing contained in the section one hundred ten shall in any way affect the right of any party to trial by jury as heretofore provided by law.

(o) There shall be a sufficient number of pro se clerks of the housing part to assist persons without counsel. Such assistance shall include, but need not be limited to providing information concerning court procedure, helping to file court papers, and, where appropriate, advising persons to seek administrative relief.

(p) The court shall review the performance and records of administrators appointed pursuant to article seven-A of the real property actions and proceedings law or receivers appointed pursuant to paragraph six of subdivision (a) of this section. Such review shall

include but not be limited to an examination of the accountings submitted by such administrators or receivers and an examination of the plan submitted to the court pursuant to subdivision nine of section seven hundred seventy-eight of the real property actions and proceedings law. The court may compel the production of any records it deems necessary to perform such review.

(q) (1) The office of court administration shall by rule promulgate a Spanish version of the Notice of Petition that shall include a designated telephone number which will provide information to the respondent in Spanish on the court process for eviction, and the Notice of Petition shall be required to be served together with an English version in all proceedings commenced under section seven hundred thirty-two of the real property actions and proceedings law.

(2) The office of court administration shall by rule promulgate a notice to be annexed to all Notices of Petitions subject to proceedings commenced under section seven hundred thirty-two of the real property actions and proceedings law, which shall state, in the six most common languages in the city of New York, after Spanish, that the respondent may obtain a copy of the Notice of Petition form in those six most common languages on the internet website of the office of court administration which shall be provided on this notice for this purpose, and may call a designated telephone number, listed on the notice, which will provide information on the court process for eviction in those six languages.

(3) The office of court administration shall by rule revise the text of the postcard currently required to be filed by petitioners in proceedings subject to article seven of the real property actions and proceedings law to include notice in the seven most common languages in the city of New York, that the respondent may call a designated telephone number, listed on the postcard, for more information on the court process for eviction.

(4) The office of court administration shall promulgate notices in the seven most common languages in the city of New York to be distributed to litigants in the housing part of the civil court advising them of the right to have all court proceedings and any agreements settling the case interpreted to them orally in their native language.

ARTICLE 2
JURISDICTION

- Section 201. Jurisdiction; in general.
202. Money actions and actions involving chattels.
203. Actions involving real property.
204. Summary proceedings.
205. Interpleader.
206. Arbitration.
207. Small claims.
208. Counterclaims.
209. Provisional remedies.
210. Contempt.
211. Joinder of causes of action in complaint; effect on jurisdiction.
212. Additional jurisdiction and powers.
- 212-a. Declaratory judgments involving obligations of insurers and de novo review under part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137).
213. Jurisdiction for rescission or reformation of certain transactions.

§ 201. Jurisdiction; in general. The court shall have jurisdiction as set forth in this article and as elsewhere provided by law. The phrase "\$50,000", whenever it appears herein, shall be taken to mean "\$50,000 exclusive of interest and costs".

§ 202. Money actions and actions involving chattels. The court shall have jurisdiction of actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of liens on personal property where the amount sought to be recovered or the value of the property does not exceed \$50,000.

§ 203. Actions involving real property. The court shall have jurisdiction of the following actions provided that the real property involved or part of it is situate within the county in the city of New York in which the action is brought:

(a) An action for the partition of real property where the assessed valuation of the property at the time the action is commenced does not exceed \$50,000.

(b) An action for the foreclosure, redemption or satisfaction of a mortgage on real property where the amount of the mortgage lien at the time the action is commenced does not exceed \$50,000.

(c) An action for the foreclosure of a lien arising out of a contract for the sale of real property where the amount of the lien sought to be foreclosed does not, at the time the action is commenced, exceed \$50,000.

(d) An action for the specific performance of a contract for the sale of real property where the contract price of the property does not exceed \$50,000.

(e) An action for the establishment, enforcement or foreclosure of a mechanic's lien on real property where the lien asserted does not, at the time the action is commenced, exceed \$50,000.

(f) An action to reform or rescind a deed to real property where the assessed valuation of the property does not exceed \$50,000 at the time the action is commenced.

(g) An action to reform or rescind a contract for the sale of real property where the agreed price of the property as stated in the contract does not exceed \$50,000; or, if the controversy shall be with regard to the price of the property, where the agreed price as claimed by plaintiff does not exceed \$50,000.

(h) An action to reform or rescind a mortgage on real property where the unpaid balance of the debt secured by the mortgage does not exceed \$50,000 at the time the action is commenced.

(i) An action to compel the determination of a claim to real property under article fifteen of the real property actions and proceedings law where the assessed valuation of the property does not exceed \$50,000 at the time the action is commenced.

(j) An action of ejectment where the assessed valuation of the real property does not exceed \$50,000 at the time the action is commenced.

(k) An action brought to impose and collect a civil penalty for a violation of state or local laws for the establishment and maintenance of housing standards, including, but not limited to, the multiple dwelling law and the housing maintenance code, building code and health code of the administrative code of the city of New York.

(l) An action to recover costs, expenses and disbursements incurred by the city of New York in the elimination or correction of a nuisance or other violation of any law described in subdivision (k) of this section, or in the removal or demolition of any building pursuant to such law or laws.

(m) An action or proceeding to establish, enforce or foreclose a lien upon real property and the rents therefrom, for civil penalties, or for costs, expenses and disbursements incurred by the city of New York in the elimination of a nuisance or other violation of any law described in subdivision (k) of this section, or in the removal or demolition of any building pursuant to such law or laws.

(n) Actions and proceedings for the removal of housing violations recorded pursuant to any law described in subdivision (k) of this section, or for the imposition of such violation or for the stay of any penalty thereunder.

(o) An action or proceeding for the issuance of an injunction, restraining orders or other orders for the enforcement of housing standards under any law described in subdivision (k) of this section.

(p) Special proceedings to vest title in the city of New York to abandoned multiple dwellings.

§ 204. Summary proceedings. The court shall have jurisdiction over summary proceedings to recover possession of real property located within the city of New York, to remove tenants therefrom, and to render judgment for rent due without regard to amount, and in such a proceeding after the court has determined that a warrant of eviction be issued, it shall not be necessary for the court to sign the warrant, but it may be signed by the clerk of said court. The court shall also have jurisdiction over special proceedings by tenants of multiple dwellings in the city of New York for judgment directing deposit of rents and the use thereof for the purpose of remedying conditions dangerous to life,

health or safety, as authorized by article seven-a of the real property actions and proceedings law.

§ 205. Interpleader. The court shall have jurisdiction of an action of interpleader and defensive interpleader as defined and governed by the CPLR, provided that the amount in controversy or the value of the property involved does not exceed \$50,000.

§ 206. Arbitration. (a) Threshold questions under CPLR article 75. If an action of which the court has jurisdiction has been duly commenced therein, and there arise in such action any questions relating to the arbitrability of the controversy, the court shall have jurisdiction completely to dispose of such questions and CPLR article 75 shall be applicable thereto. But the court shall not have jurisdiction of the special proceeding, as set forth in CPLR § 7502 (a), used to bring before a court the first application arising out of an arbitrable controversy, except as provided in subdivision (b).

(b) Proceedings on award under CPLR article 75. Where a controversy has been duly arbitrated and an award made therein is for relief which is within the court's jurisdiction, the court shall have jurisdiction of proceedings under CPLR §§ 7510 through 7514, relating to judicial recognition of such awards, which provisions shall be applicable thereto.

(c) Arbitration distinct from CPLR article 75. The rules may provide systems of arbitration and conciliation of claims within the court's jurisdiction without reference to CPLR article 75. Where the chief administrator of the courts has provided by rule for an alternative method of dispute resolution by arbitration and has established by order this arbitration program in any county in this court, applicable in each such county to civil actions for a sum of money only, except those commenced in small claims parts and not subsequently transferred to a regular part of court, that on or after the effective date of such order are noticed for trial or commenced in this court, all such actions shall be heard and decided by a panel of arbitrators where the recovery sought for each cause of action is ten thousand dollars or less, exclusive of

costs and interest.

§ 207. Small claims. The court shall have jurisdiction of small claims as defined in article 18 of this act.

§ 208. Counterclaims. The court shall have jurisdiction of counterclaims as follows:

(a) Of any counterclaim the subject matter of which would be within the jurisdiction of the court if sued upon separately.

(b) Of any counterclaim for money only, without regard to amount.

(c) Of any counterclaim for:

1. the rescission or reformation of the transaction upon which the plaintiff's cause of action is founded, if the amount in controversy on such counterclaim does not exceed \$50,000; or

2. an accounting between partners after the dissolution of the partnership, where the book value of the partnership assets does not exceed \$50,000 and the plaintiff's cause of action arises out of the partnership.

(d) In an action commenced in the housing part by the city department charged with enforcing the multiple dwelling law, housing maintenance code, or other state or local laws applicable to the enforcement of proper housing standards, no counterclaim may be interposed or maintained except if it relates to an action or proceeding specified in subdivision (a) of § 110 of this act.

§ 209. Provisional remedies. (a) Attachment, arrest, seizure of chattel. An order of attachment or of arrest, a warrant to seize a chattel as provided in § 207 of the lien law, and an order of seizure of a chattel may issue out of this court if such remedy might issue out of supreme court in a like case.

(b) Injunction or restraining order. No injunction or restraining order or notice shall issue out of or by this court unless:

(1) pursuant to §§ 7102 (d), 7103 (c) and 7109 of the CPLR, in conjunction with the recovery of a chattel; or

(2) pursuant to § 211 of the Real Property Actions and Proceedings law, in conjunction with the prevention of waste; or

(3) pursuant to § 1508 of this act, in conjunction with an enforcement proceeding; or

(4) pursuant to section three hundred six of the multiple dwelling law, or article fifty-three of the housing maintenance code of the administrative code of the city of New York in conjunction with enforcement of housing standards.

(c) Receivers. No receiver shall be appointed by this court except pursuant to § 1508 of this act, relative to an enforcement proceeding, or in an action for the foreclosure of a mortgage on real property, brought pursuant to the provisions of § 203 (b) of this act, or in an action brought pursuant to subdivision five of section three hundred nine of the multiple dwelling law, relative to the appointment of a receiver for the recovery of costs, expenses and disbursements incurred by the city of New York in the elimination or correction of a nuisance or in the removal or demolition of a building pursuant thereto.

(d) Notice of pendency. A notice of pendency may be filed with the county clerk, as provided in article 65 of the CPLR, in any action within the court's jurisdiction in which the same might be filed in a like action in the supreme court. The city department charged with the enforcement of the multiple dwelling law, housing maintenance code, and other state and local laws applicable to the enforcement of proper housing standards may file a notice of pendency as authorized by section 308 of the multiple dwelling law or section D26-50.07 of the housing maintenance code of the administrative code of the city of New York.

§ 210. Contempt. All of the provisions of law governing civil and criminal contempts in like instances in supreme court shall apply in this court, except that this court shall have no power to punish for contempt a judge or justice of any court.

§ 211. Joinder of causes of action in complaint; effect on

jurisdiction. Where several causes of action are asserted in the complaint and each of them would be within the jurisdiction of the court if sued upon separately, the court shall have jurisdiction of the action. In such case judgment may be rendered by the court in excess of \$50,000 if such excess result solely because of such joinder. Nothing herein shall be construed to prevent the court from granting judgment in an unlimited amount on a counterclaim.

§ 212. Additional jurisdiction and powers. In the exercise of its jurisdiction the court shall have all of the powers that the supreme court would have in like actions and proceedings.

§ 212-a. Declaratory judgments involving obligations of insurers and de novo review under part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137). The court shall have the jurisdiction defined in section 3001 of the CPLR to make a declaratory judgment with respect to:

(a) any controversy involving the obligation of an insurer to indemnify or defend a defendant in an action in which the amount sought to be recovered does not exceed \$50,000; and

(b) actions commenced by a party aggrieved by an arbitration award rendered pursuant to part 137 of the rules of the chief administrator in which the amount in dispute does not exceed \$50,000.

§ 213. Jurisdiction for rescission or reformation of certain transactions. The court shall have jurisdiction of actions for rescission or reformation of a transaction if the amount in controversy does not exceed \$50,000.

ARTICLE 3

VENUE

Section 301. Transitory actions; venue.

302. Real property actions; venue.

303. Summary proceedings; venue.

304. Actions by or against the city of New York; or against the New York city transit authority; venue.

305. Assignees; corporations and associations.

306. Change of venue; procedure.

307. Venue; rules.

§ 301. Transitory actions; venue. An action, other than a real property action, shall be brought:

(a) in an action arising out of a consumer credit transaction where a purchaser, borrower, or a debtor is a defendant, if a defendant resides in the city of New York, or if such transaction took place therein, in the county in which a defendant resides at the commencement thereof or in the county in which such transaction took place, and in all other cases, in the county in which one of the parties resides at the commencement thereof; or

(b) if no party resides in the city of New York, in the county in which one of the parties has regular employment or a place for the regular transaction of business; or

(c) if no party has such employment or place of business within the city of New York, in the county in which the cause of action arose; or

(d) if none of the foregoing are applicable, in any county.

§ 302. Real property actions; venue. A real property action, as defined in § 203 of this act, whether asserted by a plaintiff or by any party by way of counterclaim, cross-claim or third-party claim, shall be brought and adjudicated only in the county in which such real property or a part thereof is situated. If by virtue of the venue applicable to the cause of action asserted by plaintiff the main action is triable in a county other than that in which the real property is situated, the court must either:

(a) transfer the entire action to the county wherein the real property is situated, if the transfer may be effected without prejudice to the rights of any party; or

(b) strike the real property cause of action, no matter by whom

asserted, without prejudice to the party asserting it to commence it in the proper county.

If more than one real property cause of action appear, the court may make such disposition as is just under the circumstances, and a real property action, no matter by whom asserted, may be tried in a county other than that in which the real property or a part thereof is situated only if there is reason to believe that an impartial trial cannot be had in the latter county.

§ 303. Summary proceedings; venue. A summary proceeding to recover possession of real property or to remove tenants therefrom shall be brought in the county in which the real property or a part thereof is situated.

§ 304. Actions by or against the city of New York; or against the New York city transit authority; venue. (a) An action by or on behalf of the city of New York or any department thereof shall be brought in the county of New York or in the county within said city where the cause of action arose.

(b) An action against the city of New York or the New York city transit authority shall be brought in the county within said city where the cause of action arose. If the cause of action arose outside the city of New York, the action shall be brought in the county of New York.

§ 305. Assignees; corporations and associations. (a) If the plaintiff is an assignee of the cause of action, the original owner of the cause of action shall be deemed the plaintiff for the purpose of determining proper venue.

(b) A corporation, joint-stock association or other unincorporated association shall be deemed a resident of any county wherein it transacts business, keeps an office, has an agency or is established by law.

§ 306. Change of venue; procedure. The bringing of an action or proceeding in the wrong county shall not be deemed a jurisdictional defect, but the court may of its own motion and must on the motion of a party defendant transfer the action or proceeding to a proper county. The motion by the defendant for such relief must be made in writing and on notice and must be filed with the clerk before or at joinder of issue. It must specify the county to which the defendant desires the action or proceeding to be transferred and must state under oath facts showing that ground exists for such transfer. In the absence of timely motion by the defendant, he shall be deemed to have waived any objection relating to proper venue, except in the case of a real property action.

The transfer of a real property action from an improper to the proper county may be had at any time by motion or otherwise.

§ 307. Venue; rules. Notwithstanding the provisions of this article, the rules may establish a part or parts of the court where designated classes of cases shall be brought or tried.

ARTICLE 4

SUMMONS

Section 400. Method of commencing action or special proceeding.

401. Summons; issuance; form; issuance of notice of petition.

402. Summons; time to appear and answer.

403. Summons; method and place of service.

404. Summons; personal jurisdiction by acts of non-residents.

405. Summons; service without the city of New York permissible
but not giving personal jurisdiction in certain actions.

406. Summons; service by publication authorized.

407. Summons; action commenced pursuant to CPLR § 303.

408. Summons; service outside city to bring in certain
additional parties or on domiciliary-resident.

409. Summons and complaint, notice of petition and petition or
order to show cause and petition; filing proof of

service.

410. Summons; when service complete.

411. Service of summons and complaint, third-party summons and complaint, petition with a notice of petition or order to show cause and petition upon defendant.

412. Accrual of interest.

§ 400. Method of commencing action or special proceeding. 1. An action is commenced in this court by filing a summons and complaint. A special proceeding is commenced by filing a notice of petition and petition or order to show cause and petition. For purposes of this section, and for purposes of section two hundred three of the civil practice law and rules, filing shall mean the delivery of the summons and complaint, the notice of petition and petition or order to show cause and petition to the clerk of the court in the county in which the action or special proceeding is brought together with any fee required by section nineteen hundred eleven of this act. At the time of filing, the original and a copy of the papers shall be date stamped by the court clerk who shall file the original and maintain a record of the filing and shall return the copy to the party who brought the filing. The clerk shall accept the fee and file the papers as soon as reasonably practicable.

2. Jurisdiction is acquired over a party to an action or special proceeding by service upon such party of a copy of the summons and complaint, the notice of petition and petition or the order to show cause and petition.

3. The actual index number shall be on the summons, notice of petition or order to show cause as served. Failure to include the index number on the papers as served shall be cured by stipulation between the parties or by leave of court, which shall not be unreasonably withheld.

§ 401. Summons; issuance; form; issuance of notice of petition. (a) The summons may be issued by the plaintiff's attorney or, if the plaintiff appears without attorney, by the clerk.

(b) The summons shall direct the defendant to file his answer with the clerk and shall otherwise be in such form as may be provided by rule. It shall contain the residence address of the plaintiff and, if it is issued by the plaintiff's attorney, the latter's office address.

(c) Notwithstanding the provisions of section 731 of the real property actions and proceedings law, regarding issuance by an attorney, the notice of petition in a summary proceeding to recover possession of real property shall be issued only by a judge or the clerk of the court. The original petition shall be filed with the clerk at the time the notice of petition is issued.

(d) The summons served in an action arising from a consumer credit transaction must be printed legibly in both Spanish and English.

§ 402. Summons; time to appear and answer. (a) If the summons is personally delivered to the defendant within the city of New York, it shall require him to appear and answer within twenty days after its service.

(b) If the summons is served by any means other than personal delivery to the defendant within the city of New York, it shall provide that the defendant must appear and answer within thirty days after proof of service is filed with the clerk.

§ 403. Summons; method and place of service. Service of summons shall be made in the manner prescribed in supreme court practice, including the optional method of service by mail authorized by CPLR 312-a, but it shall be made only within the city of New York unless service beyond the city be authorized by this act or by such other provision of law, other than the CPLR, as expressly applies to courts of limited jurisdiction or to all courts of the state.

§ 404. Summons; personal jurisdiction by acts of non-residents. (a) Acts which are the basis of jurisdiction. The court may exercise personal jurisdiction over any non-resident of the city of New York, or his executor or administrator, as to a cause of action arising from any

of the acts enumerated in this section, in the same manner as if he were a domiciliary of the state and a resident of the city of New York if, in person or through an agent, he:

1. transacts any business within the city of New York or contracts anywhere to supply goods or services in the city of New York; or

2. commits a tortious act within the city of New York, except as to a cause of action for defamation of character arising from the act; or

3. owns, uses or possesses any real property situated within the city of New York.

(b) Service of summons. Service of summons under this section may be made in such manner and at such place, regardless of city or state lines, as would confer jurisdiction on supreme court in a like case.

(c) Effect of appearance. Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.

(d) Corporation or association. If service of the summons cannot be effected by personal delivery thereof within the city of New York so as to acquire in personam jurisdiction of a corporation or unincorporated association, such corporation or association shall be deemed a non-resident of the city of New York for purposes of this section.

§ 405. Summons; service without the city of New York permissible but not giving personal jurisdiction in certain actions. Service may be made without the city of New York or the state by any person authorized to make service in a like instance in supreme court and in the same manner as service in such court may be made:

(a) in a real property action as defined in § 203 of this act; or

(b) in an action to foreclose a lien on, or to recover, a chattel seized within the city of New York; or

(c) where a levy upon property of the person to be served has been made within the city of New York pursuant to an order of attachment; or

(d) where the case is within CPLR § 1006 (g) and a sum of money has

been paid or deposited as provided for therein.

§ 406. Summons; service by publication authorized. The court, upon motion without notice, shall order service of a summons by publication in an action described in § 405 if service cannot be made by another method with due diligence. Practice and procedure on service by publication shall be governed by the CPLR, except insofar as this act otherwise provides.

§ 407. Summons; action commenced pursuant to CPLR § 303. In any action in this court to be commenced by service of summons upon an attorney or a clerk as agent, as authorized by CPLR § 303, such service may be made in such manner and at such place regardless of city lines, as would confer jurisdiction on the supreme court in a like case.

§ 408. Summons; service outside city to bring in certain additional parties or on domiciliary-resident. A summons may be served in such manner and at such place, regardless of city or state lines, as would confer jurisdiction on the supreme court in a like instance, upon:

- (a) a third-party defendant as set forth in CPLR § 1007;
- (b) a person not a party against whom a counterclaim is asserted pursuant to CPLR § 3019 (a);
- (c) a person not a party against whom a cross-claim is asserted pursuant to CPLR § 3019 (b);
- (d) a claimant whom a defendant stakeholder seeks to bring into the action pursuant to CPLR § 1006 (b);
- (e) a person whom the court has ordered joined as a party pursuant to CPLR § 1001; and
- (f) a defendant who is a domiciliary of the state and a resident of the city.

§ 409. Summons and complaint, notice of petition and petition or order to show cause and petition; filing proof of service. (a) Proof of

service of the summons and complaint, notice of petition and petition or order to show cause and petition shall be filed with the clerk of the court in the county in which the action is brought.

(b) Proof of service shall be made by the certificate of the sheriff or marshal or by the affidavit of the person by whom the service was made.

§ 410. Summons; when service complete. The service of summons is complete:

(a) immediately upon personal delivery to the defendant, where § 402(a) is applicable; or

(b) upon the filing of proof of service, where § 402(b) is applicable.

§ 411. Service of summons and complaint, third-party summons and complaint, petition with a notice of petition or order to show cause and petition upon defendant. Service of the summons and complaint, third-party summons and complaint, petition with a notice of petition or order to show cause and petition shall be made within one hundred twenty days after the filing of the summons and complaint, third-party summons and complaint, or petition with notice of petition or order to show cause and petition, provided that if service is not made upon a defendant within the time provided in this section, the court, upon motion, shall dismiss the action without prejudice as to that defendant, or upon good cause shown or in the interest of justice, extend the time for service.

§ 412. Accrual of interest. In any action, petition, order to show cause or other proceeding wherein interest accrues from the date of the inception of the action, petition, order or proceeding, said entitlement to interest shall not begin to accrue until service is completed by the actual index number being properly depicted on the summons and provided to the party to be charged with the payment of interest.

ARTICLE 7

MANDATES

Section 701. Direction and execution of mandates.

702. Execution of mandates by marshals.

§ 701. Direction and execution of mandates. (a) In an action or proceeding brought in the court, all processes and mandates may be served or executed only within the city of New York unless this act otherwise provides. They shall be served or executed by the sheriff of the city of New York or by a city marshal. Where this act empowers the court's process or mandate to be served or executed without the city of New York, it shall be served or executed by such officer as could serve or execute the process or mandate of the supreme court of the county in a like instance.

(b) The provisions of law applicable in supreme court practice, relating to the execution of mandates by a sheriff and the power and control of the court over the sheriff executing the same, shall apply in this court; and they shall apply equally to both sheriffs and marshals.

(c) In any instance where a return by the enforcement officer is required by law to be made to the court or the clerk thereof, such provision shall be deemed to refer to this court in that county out of which the process or mandate issued, or the clerk of this court in such county, as the case may be.

(d) In a case where a marshal serves or executes the process or mandate of the court, the return or certificate of a marshal and the service of a paper by him shall have the same force and effect as the like return, certificate or service of or by a sheriff.

(e) Nothing herein contained shall be construed to prevent the service of a summons, petition, notice of petition, subpoena or other paper by any person who might serve the same in a like instance in the supreme court.

§ 702. Execution of mandates by marshals. The authority of a marshal shall extend throughout the city of New York. But where a transcript of a money judgment has been filed with the county clerk, an execution

shall thereafter issue only to a sheriff, as if the judgment on which execution is sought were rendered by the supreme court.

ARTICLE 8

PROVISIONAL REMEDIES

Section 801. Provisional remedies; procedure.

802. Tender and offer.

§ 801. Provisional remedies; procedure. Whenever the remedies set forth in § 209 of this act may issue out of this court under the terms of said section, practice and procedure thereon shall be governed, insofar as consistent with this act, by the CPLR and such other provisions of law governing practice and procedure thereon in the supreme court, subject to the following:

(a) The remedy may be executed only within the city of New York, against persons or property within the city of New York.

(b) When a return is required, the return shall be made to the clerk of this court in the county out of which the remedy issued.

(c) 1. Where a notice of pendency may be filed with the county clerk, pursuant to § 209(d) of this act, the original complaint shall be filed simultaneously with such county clerk; service of summons shall thereafter be made within the time provided in CPLR § 6512. A copy of the complaint shall be sufficient for the purpose of filing the same, after service thereof, with the clerk of this court.

2. Where a notice of pendency is filed with the county clerk after the action has been commenced in this court, a copy of the complaint may be filed therewith in lieu of the original complaint.

§ 802. Tender and offer. The provisions of Rules 3219, 3220 and 3221 of the CPLR, treating respectively of tender, offer to liquidate damages conditionally and offer to compromise, shall be applicable in this court, with the additional requirement that at the time of service upon the other party of the "written tender", "written offer" or "written

notice", as referred to in said rules, a copy of such tender, offer or notice shall be filed with the clerk.

ARTICLE 9

PLEADINGS

Section 901. Pleadings; in general.

902. Pleadings; form.

903. Pleadings; requirements of formal pleading inapplicable to indorsement pleading.

905. Pleadings; defenses.

907. Pleadings; subsequent pleading containing cause of action.

908. Pleadings; verification.

909. Pleadings; amended and supplemental.

910. Simplified procedure for court determination of disputes; action without pleadings.

§ 901. Pleadings; in general. Pleadings between plaintiff and defendant shall consist of complaint and answer and, when ordered, a reply. Such order may be made by motion on notice or by the court of its own motion.

§ 902. Pleadings; form. (a) All pleadings shall be formal pleadings, as in supreme court practice, except that:

(1) If the plaintiff's cause of action is for money only, the cause of action may be set forth by indorsement upon the summons. The indorsement shall consist of a statement of the nature and substance of the cause of action, and the summons in such instance shall set forth the amount in which the plaintiff will take judgment in the event of default. If the plaintiff shall appear without attorney, such indorsement shall be made by the clerk.

(2) Where the plaintiff's cause of action is for money only and the defendant appears without attorney, he may describe his answer to the clerk, who shall indorse the nature and substance of the answer on, or annex it to, the summons.

(b) If a formal complaint must be or is used, it shall be served with the summons, except that if service is made by publication the CPLR shall govern.

(c) The address of the defendant, and that of his attorney if he shall appear by attorney, shall be stated with or in the answer.

(d) The rules may provide, in actions for money only in designated categories in which a party might otherwise proceed by indorsement as above provided, that a formal complaint, or a formal answer, or both, shall be required.

(e) The court in any case may, at any time before judgment, on its own motion or on the motion on notice of a party, direct the service and filing of a formal pleading.

§ 903. Pleadings; requirements of formal pleading inapplicable to indorsement pleading. The requirements of this act or of the CPLR applicable to a formal pleading shall not be applicable to an indorsement pleading.

§ 905. Pleadings; defenses. The court may consider any defense to a cause of action or claim asserted by any party, whether such defense be denominated or deemed legal or equitable in nature.

§ 907. Pleadings; subsequent pleading containing cause of action. (a) Counterclaim. The plaintiff may reply to a counterclaim but shall not be required to do so except by court order. If the plaintiff elects voluntarily to reply, he shall do so within ten days after service of the answer containing the counterclaim. In the absence of a reply the allegations of the counterclaim shall be deemed denied by the plaintiff. An answer containing a counterclaim against the plaintiff and another person shall be replied to by such other person, as required by CPLR § 3019(d), within the time provided in § 402 of this act, based upon the time and method of service.

(b) Cross-claim. A cross-claim shall be answered within ten days after the answer containing it is served.

(c) Third-party claim and claim by defendant stakeholder. A third-party complaint, and an interpleader complaint served by a defendant stakeholder under CPLR § 1006(b), shall be answered within the time provided in § 402 of this act, based upon the time and method of service.

§ 908. Pleadings; verification. Verification of pleadings shall be governed by the CPLR, except that if a pleading be not formal it need not be verified. The court in such instance may require a formal pleading as provided in subdivision (e) of § 902 and order its verification.

§ 909. Pleadings; amended and supplemental. (a) A party may amend his pleading once without leave of court at any time before the period for responding to it expires, or within ten days after its service or the service of a pleading responding to it. An amended pleading which requires a responsive pleading shall be responded to within ten days after it is served, or within ten days after the expiration of the period during which the original pleading could have been responded to, whichever is later.

(b) Except as provided in subdivision (a), the CPLR shall govern amended and supplemental pleadings in this court.

§ 910. Simplified procedure for court determination of disputes; action without pleadings. The simplified procedure for court determination of disputes set forth in CPLR §§ 3031, 3035 and 3037, and rules 3032 and 3036, shall apply in this court in so far as they may be applicable and the relief demanded is within the jurisdiction of this court.

ARTICLE 10

MOTIONS

Section 1001. Motion practice.

1002. Motion to dismiss.

1003. Motion to correct pleadings.

1004. CPLR § 3213 applicable; return time varied.

§ 1001. Motion practice. Motion practice in the court, including time provisions for the making and decision of motions, practice relating to show cause orders, and practice relating to motions before, during and after trial, shall be governed by the CPLR, except as this act otherwise provides.

§ 1002. Motion to dismiss. CPLR rule 3211, relating to a motion to dismiss, shall apply in this court, except that, with reference to subdivision (e) of said rule, a party's time to move to dismiss a cause of action contained in a pleading to which no response is required shall be within ten days after the service of such pleading. A motion based on paragraphs two, seven or ten of subdivision (a) of said rule may, as provided in its subdivision (e), be made at any time.

§ 1003. Motion to correct pleadings. Rule 3024 of the CPLR shall apply to motions to correct formal pleadings in this court, except that the notice of motion shall be served within the time allowed for responding to the challenged pleading or, in the case of a pleading requiring no response, within ten days after the service of such pleading.

§ 1004. CPLR § 3213 applicable; return time varied. CPLR § 3213, relating to a motion for summary judgment in lieu of complaint, shall be applicable in this court, except that the minimum period for return of the motion shall be as provided by § 402 of this act for answering a summons, based upon the time and method of service. The summons served with such motion papers shall instruct the defendant to answer as provided in the accompanying notice of motion. If the plaintiff adds days to the period for return provided herein, he may require the defendant to serve a copy of his answering papers upon plaintiff an

equal number of days prior to such return day.

ARTICLE 11

DISCLOSURE

Section 1101. Disclosure.

1102. Implied admissions.

§ 1101. Disclosure. (a) CPLR applicable. The procedures set forth in the CPLR relative to disclosure, bill of particulars and the procuring of a copy of the items of an account, shall govern in this court, subject to subdivision (b). In an action to impose or collect a civil penalty for violation of the multiple dwelling law or the housing maintenance code of the New York city administrative code, leave of court, obtained by motion to the housing part thereof, shall be required for disclosure or for a bill of particulars except for a notice under CPLR 3123, which leave shall be granted only upon a showing that such disclosure or bill of particulars is necessary to the prosecution or defense of the action. If it is so noted on the summons, any motion for disclosure or a bill of particulars must be made in writing and on notice and must be filed with the clerk with proof of service not later than thirty days after joinder of issue.

(b) Parties and non-parties. All notices, orders, subpoenas and other papers relating to disclosure:

1. by a party, may be served by such means and at such place, regardless of city or state lines, as would be permissible in the supreme court in a like instance;

2. by a person not a party, may be served and executed only within the city, unless the court shall find that the interests of justice require that service not be so limited, in which case the court may permit service as in paragraph one. Such permission may be granted only after motion on notice to all adverse parties.

(c) Protective order. The protective order provided for in CPLR § 3103 shall be available in this court with regard to all of the foregoing,

and shall not be limited to the disclosure devices provided in article 31 of the CPLR.

§ 1102. Implied admissions. The following provisions governing matters deemed admitted and the imposition of additional costs for unreasonable denials shall be applicable in this court.

(a) Ownership, operation or control of:

1. Vehicle. In an action for negligence arising from the ownership, operation or control of a vehicle required to be registered or licensed, where the pleading containing the cause of action states the registration or license number of such vehicle, the pleader need not prove upon the trial the ownership, operation or control of such vehicle by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

2. Streetcar or bus. In an action for negligence arising from the ownership, operation or control of any streetcar or omnibus in the state of New York, where the pleading containing the cause of action states the avenue or street upon which the said streetcar or omnibus was operated, the place where the accident occurred, and the number of the streetcar or omnibus or the name or number of any of the employees operating the said streetcar or omnibus at the time in question, the pleader need not prove upon the trial the ownership, operation or control of the particular streetcar or omnibus by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

3. Building. In an action for negligence arising from the ownership, operation or control of any building, dwelling or tenement house, where the pleading containing the cause of action states the full address of the building, dwelling or tenement house and the date when the acts complained of took place, the pleader need not prove upon the trial the ownership, operation or control of such building, dwelling or tenement house by the other party and the same shall be deemed admitted, unless specifically denied in the responsive pleading.

(b) Signature. A signature to a written instrument which is pleaded shall be deemed genuine unless the other party, in his responsive pleading, specifically denies its genuineness and makes demand that it be proved.

(c) Corporate existence. In an action by or against a corporation organized or authorized to do business pursuant to the laws of the state of New York, the existence of such corporation shall be deemed admitted unless specifically denied in the responsive pleading.

(d) In the event of the unreasonable or unjustifiable denial of any of the matters contained in subdivisions (a), (b) or (c), and the satisfactory proof thereof, upon trial, by the party who pleaded them, the court may allow such party, if he prevails in the action, additional costs not to exceed twenty-five dollars for each such denial.

ARTICLE 12

SUBPOENAS

Section 1201. Subpoenas.

§ 1201. Subpoenas. A subpoena and a subpoena duces tecum, and the powers of the court with reference to them, shall be governed by the CPLR, except that they shall be served only within the city of New York or in a county adjoining such city. But the court, upon motion of a party which need not be on notice, may issue either kind of subpoena and permit its service elsewhere outside the city of New York if satisfied that the interests of justice would be served thereby.

ARTICLE 13

TRIAL

Section 1301. How cause brought on for trial; notice of trial.

1302. Adjournment of trial.

1303. Jury trial; how obtained; jury fee.

1305. Number of jurymen.

1306. Jury terms.

1307. Jurors; challenges.

§ 1301. How cause brought on for trial; notice of trial. Upon joinder of issue the clerk shall place the case upon a general calendar. Where any party appears in person, the clerk shall fix a date for trial not less than five nor more than fifteen days after joinder of issue, and shall immediately notify all the parties by mail of such date. If any of the parties has appeared by attorney, the clerk shall notify the attorney. Where all parties appear by attorney any party may serve a notice on the others fixing a date for trial not less than five nor more than eight days after the service of such notice, and shall file such notice, with proof of service thereof, with the clerk, who shall thereupon place the case on the calendar for trial. The case shall be set down for trial as provided for by the rules.

§ 1302. Adjournment of trial. The trial of an action may be adjourned:

(a) By the court for good cause shown and upon such terms and conditions as the court may deem just.

(b) By stipulation of the parties with the approval of the court, such stipulation to be filed with the clerk; or upon request of the plaintiff where the defendant has made default; or, if the court approve, upon consent of the parties in open court.

§ 1303. Jury trial; how obtained; jury fee. (a) Either party after joinder of issue may demand a trial by jury. The demand must be made in writing and must be filed with the clerk with the notice of trial set forth in § 1301. Any other party to the action within ten days after the service of a copy of the notice of trial upon him unaccompanied by a written notice demanding a trial by jury, may serve upon the attorneys for all the other parties to the action a written notice demanding a jury trial and file a copy of such notice with the clerk within three days after service thereof. In a summary proceeding to recover possession of real property, the demand may be made by the tenant at the time of answering or by the landlord at any time before the day of trial.

(b) Unless a demand is made and the jury fee paid as provided in section nineteen hundred eleven of this act, a jury trial is waived.

(c) The Court may relieve a party from the effect of failing to comply with this section if no undue prejudice to the rights of another party would result.

§ 1305. Number of jurymen. A jury shall be composed of six persons.

§ 1306. Jury terms. Jury terms shall be held as may from time to time be directed by rule or order. All provisions of law applicable to trial jurors in supreme court, insofar as such provisions are not inconsistent with this act, shall apply as nearly as may be in this court.

§ 1307. Jurors; challenges. Challenges to jurors shall be as provided in the CPLR.

ARTICLE 14

JUDGMENT

Section 1401. Judgments; in general.

1402. Default judgment.

1403. Confession of judgment.

§ 1401. Judgments; in general. Within the limits of its jurisdiction as defined in this act or as elsewhere provided by law, the court shall have power to render any judgment that the supreme court might render in a like case. The judgment in an action shall be prepared by the attorney for the successful party, except that if such party does not appear by attorney the judgment shall be prepared by the clerk. If the judgment is not prepared within thirty days after it is rendered, the attorney for the unsuccessful party may prepare the judgment, except that if such party does not appear by attorney, the judgment shall be prepared by the clerk upon request of such party. In a summary proceeding to recover

possession of real property, the judgment shall be prepared by the clerk.

§ 1402. Default judgment. A judgment by default may be entered as provided in CPLR § 3215.

A summons stating the amount for which the plaintiff will take judgment if the defendant fails to appear and answer, and containing a statement of the nature and substance of the cause of action, or a summons accompanied by a formal complaint, shall be deemed "the summons and the complaints" referred to in subdivision (e) of said section.

§ 1403. Confession of judgment. The provisions of CPLR § 3218, relating to judgment by confession, shall be applicable in this court where the relief for which the judgment is confessed is within the jurisdiction of this court. For such purpose the words "clerk of the county" as used in CPLR § 3218 (b) shall be deemed a reference to the clerk of this court in such county, and such judgment shall be entered in this court and shall be enforceable in the same manner and with the same effect as a judgment in an action in this court.

ARTICLE 15

EXECUTION

Section 1501. Execution; when and how issued.

1502. Transcript of judgment.

1503. Executions against marshals or sheriffs.

1504. Executions issued out of this court; requisites.

1505. Execution to be levied against real property.

1506. Execution where order of attachment issued.

1507. Limitation on execution against property of tenant.

1508. Enforcement proceeding; injunction, receivership.

1509. Contempt; extension of court's process.

§ 1501. Execution; when and how issued. An execution, including an income execution, upon a judgment may be issued by the judgment-creditor's attorney or, if he does not appear by attorney, by the clerk of the court in the county where the judgment was entered. It shall be issued within the time prescribed by law applicable in the supreme court.

A "judgment", as used in this article, shall be deemed to include an order directing the payment of money.

§ 1502. Transcript of judgment. (a) Upon application of a judgment-creditor the clerk must deliver to him a transcript of the judgment. If the judgment is for other than money only, the clerk shall insert in the transcript a brief statement of the nature of the action and the relief awarded by the judgment; such statement may be inserted under "remarks" as contained in the form set forth in § 255-c of the judiciary law.

(b) The docketing of the judgment with the clerk of the county, and thereafter with other county clerks, shall be governed by the CPLR.

§ 1503. Executions against marshals or sheriffs. (a) Execution on a judgment against a marshal or his sureties shall issue only to the sheriff after transcript filed with the county clerk and must be made returnable to said clerk.

(b) Execution on a judgment against a sheriff shall issue to such person as the same would issue to in supreme court practice on a like judgment, and it shall issue only after transcript filed with the county clerk and must be made returnable to said clerk.

§ 1504. Executions issued out of this court; requisites. An execution issued out of this court may be levied only against personal property of the judgment-debtor. It shall be directed either to a marshal or the sheriff of the city of New York, and if directed to the sheriff it must be delivered to the office of the sheriff in the county in which it is

to be levied. It must be subscribed by either the clerk of the court in the county in which the judgment was entered, or the attorney for the judgment-creditor, and must bear, in addition to such other matter as is required by the CPLR, the date of its delivery. It may be levied in any part of the city of New York, and for such purpose it is not necessary that the judgment have been docketed with any county clerk.

§ 1505. Execution to be levied against real property. An execution out of this court may not be levied against real property. In order for an execution on a judgment of this court to be levied against real property, a transcript of such judgment must be filed with the county clerk of the county wherein judgment was entered, pursuant to § 1502 of this act. After such transcribing, CPLR § 5018 (a) shall be applicable and the judgment enforceable accordingly. This shall not be construed to prevent the issuance of an execution out of this court, pursuant and subject to § 1504 of this act, after such transcribing.

§ 1506. Execution where order of attachment issued. Where the real property of the judgment-debtor has been duly attached under an order of attachment that has not been vacated, the execution may not issue out of this court. In such a case, a transcript of the judgment must be filed and docketed with the county clerk and the execution issued out of supreme court.

§ 1507. Limitation on execution against property of tenant. No levy shall be made on the property of a tenant dispossessed for non-payment of rent under any execution within twenty-four hours of the time of dispossession, if the property of which the tenant is being dispossessed was his residence.

§ 1508. Enforcement proceeding; injunction, receivership. (a) An injunction or restraining order or notice may issue out of or by, and a receiver may be appointed by, the court if:

1. the court has been granted jurisdiction of an enforcement proceeding by CPLR § 5221; and

2. such remedy is utilized in furtherance of the enforcement of a money judgment.

(b) In any enforcement proceeding of which the court has jurisdiction, all processes, mandates, subpoenas, orders, notices and other papers therein may be served or executed by such means and at such place, regardless of city or state lines, as would be authorized in the supreme court in a like instance; and the powers of a receiver appointed in such proceeding, pursuant to subdivision (a), shall extend throughout the state.

§ 1509. Contempt; extension of court's process. In an instance where a contempt of the court has been committed, the court's process or mandate relating to the punishment of the contemptuous person may be served and executed in any part of the state, and proceedings thereon shall follow supreme court practice.

ARTICLE 16

MARSHALS

Section 1601. Marshals to continue in office; appointment of marshals; vacancies.

1601-a. City marshals; qualifications, prohibitions.

1602. City marshals; badges.

1603. Persons pretending to be city marshals.

1604. Bond of marshal.

1605. Action on marshal's bond.

1606. Filing of transcript of judgment with city clerk; reducing bond.

1607. Reducing bond on payment.

1608. Appellate division to compel renewal of marshal's bond; removal of marshal.

1609. General powers, duties and liabilities of marshals;

small claims judgments.

1610. Discipline, suspension and removal on charges.

1611. Fees to the city of New York.

1612. Appellate division to continue authority.

§ 1601. Marshals to continue in office; appointment of marshals; vacancies. 1. No more than eighty-three city marshals shall be appointed by the mayor. Upon the expiration of the terms of office of the duly appointed incumbents the mayor shall appoint their successors for terms of five years. Every marshal shall be, at the time of his or her appointment and during his or her term of office, a domiciliary of the city of New York or of the county of Nassau, Westchester, Suffolk, Orange, Rockland or Putnam, and his or her removal from the city or one of such counties shall vacate his or her office. If a vacancy in the office of a marshal shall occur otherwise than by the expiration of a term the person appointed by the mayor to fill such vacancy shall hold office for the unexpired term of the marshal whom he or she succeeds.

2. An independent committee on city marshals is hereby created. The committee shall consist of fifteen members, of whom six shall be selected by the mayor, three each shall be selected by the presiding justices of the first and second judicial departments and three shall be selected by the deans of law schools located within the city of New York. Performance of this function shall be rotated annually among such eligible deans. The members chosen by the mayor and the presiding justices shall serve for a term concurrent with the mayor's term of office. The members chosen by the law school deans shall serve one year. Vacancies in the committee shall be filled in the same manner as initial appointments.

3. The committee shall establish and publish criteria for the appointment of marshals and shall recommend up to three qualified persons meeting such criteria for each appointment to the office of city marshal to be made by the mayor. In addition to any criteria established by the committee, all persons to be recommended to the mayor shall be required to provide to the department of investigation of the city of

New York or any successor agency thereto, information relating to their background and financial resources in a form prescribed by such department. All communications to the committee, and its proceedings and all applications, correspondence, interviews, transcripts, reports and all other papers, files and records of the committee shall be confidential and shall be exempt from public disclosure.

4. No person shall be appointed to the office of city marshal except upon the recommendation of the committee on city marshals. No person shall be recommended to the mayor for appointment or reappointment as a marshal unless (i) a report on such person's background has been received by the committee from the department of investigation, and (ii) in the case of a reappointment, the committee has reviewed his or her record of performance in office and has determined it to be satisfactory.

5. The mayor shall, by executive order, establish or authorize the committee to establish such procedures to be followed by the committee in its review and recommendation of candidates for the office of city marshal as are consistent with the provisions of this article and as may be necessary to effectuate its purposes.

§ 1601-a. City marshals; qualifications, prohibitions. 1. a. No person shall assume the office of city marshal on or after the effective date of this section unless he or she: (i) shall have earned a high school diploma or its equivalent; (ii) shall have satisfactorily completed, as of the date of his or her appointment, a training program; and (iii) shall have demonstrated that he or she has obtained or will be able to obtain a bond in the amount prescribed by this article. Prior service as a marshal for a period of two years or more shall be deemed to satisfy the requirement that a marshal has obtained a high school diploma or its equivalent as a condition to qualifying for appointment.

b. The appellate division shall promulgate rules and regulations which specify what constitutes an acceptable training program and shall either establish such a program or provide for its establishment. Such rules

and regulations shall set forth with particularity standards for performance which must be met by participants in the program in order that they may satisfactorily complete such program. The appellate division shall provide for the proper issuance of a certificate of satisfactory completion of training, which shall be submitted to the committee on marshals established pursuant to this article.

2. a. Except as provided by paragraph b of this subdivision, no marshal shall actively engage or participate in any other occupation or employment, nor shall any marshal engage or participate in any trade or business which creates or might tend to create an actual or potential conflict of interest. No marshal or member of his or her immediate family shall maintain any financial interest, direct or indirect, in a process serving agency, a towing company or a furniture moving and storage company. A violation of any of the provisions of this subdivision shall be cause for discipline, including removal pursuant to the procedures specified in section sixteen hundred ten of this article. For purposes of this subdivision, "immediate family" means spouse, parent, child, stepchild or sibling.

b. During any period of suspension pending a hearing on charges provided for by section sixteen hundred ten of this article, a marshal may actively engage in another occupation or employment, provided that such occupation or employment does not create or does not tend to create an actual or potential conflict of interest.

§ 1602. City marshals; badges. The mayor is hereby authorized to prescribe the style, form and size of a badge to be known and designated as the official badge of the city marshals, a description of which he shall file in the office of the city clerk. Each city marshal shall provide himself at his own expense, with one such badge, and shall wear the same at all times while engaged in the discharge of his official duties. Every city marshal shall display his badge upon demand. Every city marshal shall forthwith surrender his official badge to the city clerk upon the expiration of his term or upon the vacation of his office for any reason and the city clerk is hereby authorized to refund the sum

originally charged therefor. Any person violating the provisions of this section shall be punished by imprisonment for a term not exceeding thirty days or a fine not exceeding two hundred dollars for each offense.

§ 1603. Persons pretending to be city marshals. It shall be unlawful for any person, other than a marshal of the city of New York, to hold himself out to the public as being a marshal or as being in any way authorized to act as a marshal or to perform the duties of a marshal; and it shall be unlawful for any person, other than a marshal, to exhibit any sign with the words "marshal's bureau" thereon or any other words or terms whereby the public may be led to believe that he is a city marshal or authorized to act as such, or that his office is the office of a city marshal. It shall be unlawful for any city marshal to permit any person, other than a city marshal, to perform any act in his name, or to sign or to use his name in the performance of any act which must be performed personally by a city marshal. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by imprisonment for a term not exceeding one month or a fine not exceeding two hundred dollars for each offense.

§ 1604. Bond of marshal. (a) No marshal shall be permitted to enter upon the duties of his office until he shall have given a bond as herein prescribed. The bond shall be executed by the marshal with two sufficient sureties, who shall be residents of the city of New York and each of whom shall be the owner of real estate therein of the value of double the penalty of the bond. The penalty of the bond shall be the sum of sixty thousand dollars. Except as hereinafter provided, beginning July first, nineteen hundred ninety-nine, the penalty of the bond shall increase to the sum of eighty thousand dollars and beginning July first, two thousand, the penalty of the bond shall increase to the sum of one hundred thousand dollars. If on June thirtieth, nineteen hundred ninety-nine the provisions of subdivision (s-1) of section one hundred five of the civil practice law and rules and paragraph b of subdivision one of section sixteen hundred nine of the New York city civil court act

are repealed pursuant to section three of chapter four hundred fifty-five of the laws of nineteen hundred ninety-seven, the penalty of the bond shall remain sixty thousand dollars and shall not increase to the sum of eighty thousand dollars on July first, nineteen hundred ninety-nine or to the sum of one hundred thousand dollars on July first, two thousand. The bond shall provide that the marshal and the sureties shall jointly and severally answer to the city of New York and any persons that may complain, for the true and faithful execution by such marshal of the duties of his office. The bond shall be submitted for approval to a judge of the court and such judge shall have power to require that the sureties justify before him within five days after the bond shall have been submitted, and shall approve or reject the bond within five days thereafter. When so approved, the bond shall be filed with the city clerk of the city of New York. A marshal already qualified for and in office on any date upon which the penalty of the bond shall increase pursuant to this subdivision shall within thirty days after such date file with the city clerk an additional bond, otherwise executed as provided for herein and approved by a judge of the court, in an amount sufficient to bring the total amount of such bond to the penalty amount provided in this subdivision.

(b) The bond must be executed, approved and filed within thirty days after the appointment of the marshal or he shall be deemed to have declined his appointment and another person shall be appointed in his place.

§ 1605. Action on marshal's bond. An action upon the bond of a marshal may be brought and prosecuted to judgment in this court, upon leave obtained from a judge of this court, according to the provisions relating to an action in the supreme court by a private person upon an official bond.

§ 1606. Filing of transcript of judgment with city clerk; reducing bond. Upon the filing with the city clerk of a transcript of a judgment on the bond of a marshal, the city clerk shall make a memorandum on the bond of the time when and the court by which such judgment was rendered

and the amount thereof, and he shall be entitled to a fee of fifty cents therefor, which the court rendering the judgment shall have power to include therein; and the bond shall be reduced by the amount of the judgment.

§ 1607. Reducing bond on payment. Whenever the sureties of the marshal shall pay the amount for which the action on the marshal's bond is brought, and the costs and disbursements incurred therein, or any part thereof, they shall be entitled to have such sum credited upon the bond upon presenting to the city clerk the affidavit of the plaintiff or his attorney in such action, acknowledging the payment; whereupon such clerk shall endorse the payment on the bond and the bond shall be reduced by the amount so paid.

§ 1608. Appellate division to compel renewal of marshal's bond; removal of marshal. Whenever judgment shall be rendered on the bond of a marshal, or the bond shall be reduced as provided in the last preceding section, the city clerk shall report the fact to the appellate division. If the amount of the judgment is equal to or greater than the amount of the bond the appellate division shall direct the marshal to furnish a new bond; or, if the amount of the judgment is less than the amount of the bond, or in case of a reduction thereof, the appellate division shall direct the marshal to furnish an additional bond in the penal sum of double the amount of the judgment or the reduction. If the marshal fails to comply with such direction within ten days after notice thereof, his failure shall constitute ground for his removal from office.

§ 1609. General powers, duties and liabilities of marshals; small claims judgments. * 1. a. The authority of a marshal extends throughout the city of New York and all provisions of law relating to the powers, duties and liabilities of sheriffs in like cases and in respect to the taking and restitution of property, shall apply to marshals. Every marshal shall keep a record of his or her official acts in such manner

as shall be prescribed by the appellate division. Such records shall show, in addition to the official acts of the marshal, all fees and sums received by the marshal therefor, the expenses of the marshal in connection with the performance of his or her official duties and his gross and net income as such marshal. The records of every marshal shall be open to inspection by the appellate division and such officers or employees of the court, or other persons, agencies or officials, as may be designated by the appellate division.

b. Notwithstanding any inconsistent provision of this act or of any other general, special or local law, code, charter, or ordinance, all provisions of law relating to the powers, duties and liabilities of the city sheriff in like cases in respect to the enforcement within the city of money judgments rendered by any family court or money judgments entered in any supreme court or docketed with the clerk of any county, shall apply to marshals, except that city marshals shall have no power to levy upon or sell real property and city marshals shall have no power of arrest.

* NB Effective until June 30, 2028

* 1. The authority of a marshal extends throughout the city of New York and all provisions of law relating to the powers, duties and liabilities of sheriffs in like cases and in respect to the taking and restitution of property, shall apply to marshals. Every marshal shall keep a record of his or her official acts in such manner as shall be prescribed by the appellate division. Such records shall show, in addition to the official acts of the marshal, all fees and sums received by the marshal therefor, the expenses of the marshal in connection with the performance of his or her official duties and his gross and net income as such marshal. The records of every marshal shall be open to inspection by the appellate division and such officers or employees of the court, or other persons, agencies or officials, as may be designated by the appellate division.

* NB Effective June 30, 2028

2. The appellate division shall promulgate rules and regulations concerning performance of official duties of marshals.

3. a. The appellate division shall promulgate rules and regulations providing for the assignment of specified marshals on a rotating basis during fixed time periods, to the task of executing and enforcing small claims judgments within the city of New York whenever executions of such judgments are delivered to such marshals in accordance with law. Such rules and regulations shall include provisions requiring such marshals to submit quarterly reports to an agency designated by the appellate division, reporting each such judgment collected and each unsuccessful attempt at collection and the reason or reasons for any lack of success at collection.

b. The clerk of the small claims part in each county shall freely distribute to litigants copies of a list of the names, office addresses and phone numbers and dates and counties of assignment of all marshals currently assigned within the city of New York pursuant to this subdivision. He shall also provide to litigants a list, in a form approved by the appellate division, containing information which a judgment creditor should provide to a marshal to assist him or her in the execution or enforcement of a judgment.

§ 1610. Discipline, suspension and removal on charges. The appellate division may discipline by reprimand or censure, or may temporarily suspend or permanently remove any marshal for cause, provided that written charges are first filed with said court, and that the marshal be given due notice thereof and be afforded an opportunity to be heard at a full and complete hearing. The appellate division may, in its discretion, suspend a marshal from the performance of his or her official duties pending a hearing upon the charges. Upon charges being preferred against a marshal by a judge of the appellate division, such court shall forthwith cause notice of suspension of the marshal to be served upon him or her, and the marshal shall thereupon remain suspended until the hearing and determination of the charges. Such hearing shall be held within sixty days from the date of service of notice of suspension upon a marshal, except that the period of time prescribed herein may be extended for good cause shown upon application. In lieu of discipline by temporary suspension or removal, the appellate division

may assess a fine, not to exceed five hundred dollars, against any marshal who has been found, after a hearing, to be in violation of the provisions of this article or of the rules and regulations promulgated pursuant thereto.

§ 1611. Fees to the city of New York. 1. Every city marshal who serves in office for any portion of the calendar year shall pay an annual fee to the city of New York of fifteen hundred dollars.

2. Every city marshal shall, in addition to the fee required by subdivision one, pay annually to the city of New York 4.50 percent of the gross fees, including poundage, received by the marshal during the preceding calendar year.

3. The fees paid to the city of New York pursuant to this section shall be disbursed for the purposes of this article.

§ 1612. Appellate division to continue authority. The appellate division may continue to delegate its authority under this article, except that its authority permanently to remove a marshal shall not be delegated.

ARTICLE 17

APPEALS

Section 1701. Appeals; to what court.

1702. Appeals; judgments and orders appealable.

1703. Appeals; practice and procedure in general.

1704. Settlement of case and return on appeal.

1705. Printing; record and briefs.

1706. Appeals from appellate court.

1707. Appeal to the court of appeals.

§ 1701. Appeals; to what court. Appeals shall be taken from the court

to the appellate division of the supreme court in the department in which the action or proceeding is pending, unless an appellate term of the supreme court has been established by said appellate division and it has directed that such appeals be taken to such term, in which case the appeal shall be taken to the appellate term.

§ 1702. Appeals; judgments and orders appealable. (a) Appeals as of right. An appeal may be taken as of right:

1. from any final or interlocutory judgment except one entered subsequent to an order of an appellate court which disposes of all the issues in the action; or

2. from an order not specified in subdivision (b), where the motion it decided was made upon notice and it:

(i) grants, refuses, continues or modifies a provisional remedy; or

(ii) settles, grants or refuses an application to resettle a transcript or statement on appeal; or

(iii) grants or refuses a new trial; except where specific questions of fact arising upon the issues in an action triable by the court have been tried by a jury, pursuant to an order for that purpose, and the order grants or refuses a new trial upon the merits; or

(iv) involves some part of the merits; or

(v) affects a substantial right; or

(vi) in effect determines the action and prevents a judgment from which an appeal might be taken; or

(vii) determines a statutory provision of the state to be unconstitutional, and the determination appears from the reasons given for the decision or is necessarily implied in the decision; or

3. from an order, where the motion it decided was made upon notice, refusing to vacate or modify a prior order, if the prior order would have been appealable as of right under paragraph two had it decided a motion made upon notice.

(b) Orders not appealable as of right. An order is not appealable as of right where it:

1. requires or refuses to require a more definite statement in a pleading; or

2. orders or refuses to order that scandalous or prejudicial matter be stricken from a pleading.

(c) Appeals by permission. An appeal may be taken from any order which is not appealable as of right by permission of the judge who made the order granted before application to a justice of the appellate court; or by permission of a justice of the appellate court upon refusal by the judge who made the order or upon direct application.

(d) On any appeal taken hereunder the appellate court shall have full power to review any exercise of discretion by the court or judge below.

§ 1703. Appeals; practice and procedure in general. (a) Practice and procedure on appeals shall be as provided in article 55 of the CPLR except insofar as this act or the rules of this court consistent with this act otherwise provide.

(b) An appeal as of right from a judgment entered in a small claim or a commercial claim must be taken within thirty days of the following, whichever first occurs:

1. service by the court of a copy of the judgment appealed from upon the appellant.

2. service by a party of a copy of the judgment appealed from upon the appellant.

3. service by the appellant of a copy of the judgment appealed from upon a party.

Where service as provided in paragraphs one through three of this subdivision is by mail, five days shall be added to the thirty day period prescribed in this section.

§ 1704. Settlement of case and return on appeal. (a) When an appeal

has been taken as herein prescribed, the stenographer's original transcript of minutes must be furnished to the clerk within ten days after the fees therefor have been paid. Immediately upon receiving such minutes the clerk shall cause notice of that fact to be sent to the attorney for the appellant, or to the appellant if he or she has not appeared by attorney. Within fifteen days after receiving the transcript from the clerk, or from any other source, the appellant or the appellant's attorney shall make any proposed amendments and cause them to be served, together with a copy of the transcript, on the attorney for the respondent, or on the respondent if he or she has not appeared by attorney. Within fifteen days after such service, the respondent or the respondent's attorney shall make any proposed amendments to the transcript or objections to the proposed amendments of the appellant and cause them to be served on the appellant's attorney or on the appellant if he or she has not appeared by attorney. The appellant or his or her attorney shall then procure the case to be settled on a written notice of at least four days to the clerk and to the attorney for the respondent or to the respondent if he or she has not appeared by attorney, returnable before the judge who tried the case. The clerk must thereupon make a return to the appellate court, which must contain the summons or notice of petition, pleadings, evidence, judgment and all other necessary papers and proceedings, and have annexed thereto the opinion of the court, if any, and the notice of appeal. The judge before whom the case was tried shall within five days from the date of the submission to the court of the case on appeal, settle the case and indorse his or her settlement on the return. In lieu of the judge settling the case and indorsing his or her settlement on the return, the parties may stipulate that the transcript together with the proposed amendments, if any, and all other elements of the return are correct. The clerk must thereupon cause the return to be filed with the clerk of the appellate court. After a judge is out of office he or she may settle the case in any action or proceeding tried before him or her and may be compelled by the appellate court so to do.

(b) Where no testimony was taken and a settlement of a case is not required, the return shall be made by the clerk forthwith upon filing the notice of appeal. Such return shall contain the judgment or order appealed from and all the original papers upon which the judgment or

order was rendered or made, duly authenticated by the certificate of the clerk having the custody thereof, or copies thereof duly certified by such clerk, and shall have annexed thereto the opinion of the court, if any, and the notice of appeal.

(c) Upon an appeal from an order granting or denying a motion for a new trial, upon the ground of fraud or newly discovered evidence, the stenographer's minutes of the trial shall be included in the return of the clerk and the provisions of subdivision (a) of this section shall apply to such an appeal.

§ 1705. Printing; record and briefs. The printing of neither the record nor the briefs shall be required except as the rules of the court to which the appeal is taken shall provide in designated classes of appeals.

§ 1706. Appeals from appellate court. Appeals from the judgment or order of an appellate court, on appeal from this court, shall be governed by the CPLR.

§ 1707. Appeal to the court of appeals. An appeal may be taken direct to the court of appeals from a judgment or order which finally determines an action or special proceeding where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States. On any such appeal only the constitutional question shall be considered and determined by the court.

ARTICLE 18

SMALL CLAIMS

- Section 1801. Small claims defined.
1802. Parts for the determination of small claims established.
1803. Commencement of action upon small claim.
1804. Informal and simplified procedure on small claims.

- 1805. Remedies available; transfer of small claims.
- 1806. Trial by jury; how obtained; discretionary costs.
- 1807. Review.
- 1808. Judgment obtained to be res judicata in certain cases.
- 1809. Procedures relating to corporations, associations, insurers and assignees.
- 1810. Limitation on right to resort to small claims procedures.
- 1811. Notice of small claims judgments and indexing of unpaid claims.
- 1812. Enforcement of small claims judgments.
- 1813. Duty to pay judgments.
- 1814. Designation of defendant; amendment procedure.
- 1815. Appearance by non-attorney representatives.
- 1815*2. Access to daytime pro se part.

§ 1801. Small claims defined. The term "small claim" or "small claims" as used in this act shall mean and include any cause of action for money only not in excess of ten thousand dollars exclusive of interest and costs, or any action commenced by a party aggrieved by an arbitration award rendered pursuant to part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137) in which the amount in dispute does not exceed ten thousand dollars, provided that the defendant either resides, or has an office for the transaction of business or a regular employment within the city of New York, or where claimant is a tenant or lessee of real property owned by the defendant and the claim relates to such tenancy or lease, and such real property is situated within the city of New York.

§ 1802. Parts for the determination of small claims established. The chief administrator shall assign the times and places for holding, and the judges who shall hold, one or more parts of the court in each county for the hearing of small claims as herein defined, and the rules may regulate the practice and procedure controlling the determination of such claims and prescribe and furnish the forms for instituting the

same. There shall be at least one evening session of each part every month for the hearing of small claims, provided however, that the chief administrator may provide for exemption from this requirement where there exists no demonstrated need for evening sessions. Such practice, procedure and forms shall differ from the practice, procedure and forms used in the court for other than small claims, notwithstanding any provision of law to the contrary. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of such claims in accordance with the rules and principles of substantive law. The procedure established pursuant to this article shall not be exclusive of but shall be alternative to the procedure now or hereafter established with respect to actions commenced in the court by the service of a summons. No rule to be enacted pursuant to this article shall dispense with or interfere with the taking of stenographic minutes of any hearing of any small claim hereunder.

§ 1803. Commencement of action upon small claim. (a) Small claims shall be commenced upon the payment by the claimant of a filing fee of fifteen dollars for claims in the amount of one thousand dollars or less and twenty dollars for claims in the amount of more than one thousand dollars, without the service of a summons and, except by special order of the court, without the service of any pleading other than a statement of his cause of action by the claimant or someone in his behalf to the clerk, who shall reduce the same to a concise, written form and record it in a docket kept especially for such purpose. Such procedure shall provide for the sending of notice of such claim by ordinary first class mail and certified mail with return receipt requested to the party complained against (1) at his residence, if he resides within the city of New York, and his residence is known to the claimant, (2) at his office or place of regular employment within the city of New York if he does not reside therein or his residence within the city of New York is not known to the claimant, or (3) where claimant is or was a tenant or lessee of real property owned by the defendant and the claim relates to such tenancy or lease and the notice of claim cannot be sent under paragraph one or two of this subdivision, at any place in the state where plaintiff may mail or otherwise deliver rent. If, after the

expiration of twenty-one days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim. Such notice shall include a clear description of the procedure for filing a counterclaim, pursuant to subdivision (c) of this section.

Such procedure shall further provide for an early hearing upon and determination of such claim. No filing fee, however, shall be demanded or received on small claims of employees who shall comply with § 1912 (a) of this act which is hereby made applicable, except that necessary mailing costs shall be paid.

(b) The clerk shall furnish every claimant, upon commencement of the action, with information written in clear and coherent language which shall be prescribed and furnished by the office of court administration, concerning the small claims court. Such information shall include, but not be limited to, an explanation of the following terms and procedures; adjournments, counterclaims, jury trial requests, subpoenas, arbitration, collection methods and fees, the responsibility of the judgment creditor to collect data on the judgment debtor's assets, the ability of the court prior to entering judgment to order examination of or disclosure by, the defendant and restrain him, the utilization of section eighteen hundred twelve of this article concerning treble damage awards and information subpoenas including, but not limited to, specific questions to be used on information subpoenas, and the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment if it arises out of the carrying on, conducting or transaction of a licensed or certified business or if such business appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of its business and a list of at least the most prominent state or local licensing or certifying authorities and a description of the business categories such licensing or certifying authorities oversee. The information shall be available in English. Large signs in English shall be posted in conspicuous locations in each small claims court clerk's office, advising the public of its availability.

(c) A defendant who wishes to file a counterclaim shall do so by

filing with the clerk a statement containing such counterclaim within five days of receiving the notice of claim. At the time of such filing the defendant shall pay to the clerk a filing fee of five dollars plus the cost of mailings which are required pursuant to this subdivision. The clerk shall forthwith send notice of the counterclaim by ordinary first class mail to the claimant. If the defendant fails to file the counterclaim in accordance with the provisions of this subdivision, the defendant retains the right to file the counterclaim, however the claimant may, but shall not be required to, request and obtain adjournment of the hearing to a later date. The claimant may reply to the counterclaim but shall not be required to do so.

§ 1804. Informal and simplified procedure on small claims. The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or person with a mental illness. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 1805. Remedies available; transfer of small claims. (a) Upon determination of a small claim, the court shall direct judgment in accordance with its findings, and, when necessary to do substantial justice between the parties, may condition the entry of judgment upon such terms as the court shall deem proper. Pursuant to section fifty-two hundred twenty-nine of the civil practice law and rules, prior to entering a judgment, the court may order the examination of or disclosure by, the defendant and restrain him to the same extent as if a restraining notice had been served upon him after judgment was entered.

(b) The court shall have power to transfer any small claim or claims to any other part of the court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the court.

(c) No counterclaim shall be permitted in a small claims action, unless the court would have had monetary jurisdiction over the counterclaim if it had been filed as a small claim. Any other claim sought to be maintained against the claimant may be filed in any court of competent jurisdiction.

(d) If the defendant appears to be engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transaction of business, the court shall either advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, or shall advise the claimant to do same, but shall retain jurisdiction over the small claim.

(e) If the defendant appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of a licensed or certified business, the court shall either advise the appropriate state or local licensing or certifying authority or shall advise the claimant to do same, but shall retain jurisdiction over the small claim.

(f) The court shall have the jurisdiction defined in section three thousand one of the CPLR to make a declaratory judgment with respect to actions commenced by a party aggrieved by an arbitration award rendered pursuant to part one hundred thirty-seven of the rules of the chief administrator (22 NYCRR Part 137) in which the amount in dispute does not exceed five thousand dollars.

§ 1806. Trial by jury; how obtained; discretionary costs. A person commencing an action upon a small claim under this article shall be deemed to have waived a trial by jury, but if said action shall be removed to a regular part of the court, the plaintiff shall have the same right to demand a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the plaintiff, prior to the day upon which he is notified to appear or answer, may file with the court a demand for a trial by jury and his affidavit that there are issues of fact in the action requiring such a trial, specifying the same and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of fifty dollars in such form as may be approved by the rules, payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him in the said action or any appeal within thirty days after the entry thereof; or, in lieu of said undertaking, the sum of fifty dollars may be deposited with the clerk of the court and thereupon the clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules to the part of the court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons. Such action may be considered a preferred cause of action. In any small claim which may have been transferred to another part of the court, the court may award costs up to twenty-five dollars to the plaintiff if he prevails.

§ 1807. Review. A person commencing an action upon a small claim under this article shall be deemed to have waived all right to appeal, except that either party may appeal on the sole grounds that substantial justice has not been done between the parties according to the rules and principles of substantive law.

§ 1808. Judgment obtained to be res judicata in certain cases. A

judgment obtained under this article shall not be deemed an adjudication of any fact at issue or found therein in any other action or court; except that a subsequent judgment obtained in another action or court involving the same facts, issues and parties shall be reduced by the amount of a judgment awarded under this article.

§ 1809. Procedures relating to corporations, associations, insurers and assignees. 1. No corporation, except a municipal corporation, public benefit corporation, school district or school district public library wholly or partially within the municipal corporate limit, no partnership, or association and no assignee of any small claim shall institute an action or proceeding under this article, nor shall this article apply to any claim or cause of action brought by an insurer in its own name or in the name of its insured whether before or after payment to the insured on the policy.

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine the authority of any person who appears for the corporation in defense of a small claims court case.

§ 1810. Limitation on right to resort to small claims procedures. If the clerk shall find that the procedures of the small claims part are sought to be utilized by a claimant for purposes of oppression or harassment, as where a claimant has previously resorted to such procedures on the same claim and has been unsuccessful after the hearing thereon, the clerk may in his discretion compel the claimant to make application to the court for leave to prosecute the claim in the small claims part. The court upon such application may inquire into the circumstances and, if it shall find that the claim has already been adjudicated, or that the claim is sought to be brought on solely for

purposes of oppression or harassment and not under color of right, it may make an order denying the claimant the use of the small claims part to prosecute the claim.

§ 1811. Notice of small claims judgments and indexing of unpaid claims. (a) Notice of judgment sent to judgment debtor shall specify that a failure to satisfy a judgment may subject the debtor to any one or combination of the following actions:

1. garnishment of wage;
2. garnishment of bank account;
3. a lien on personal property;
4. seizure and sale of real property;
5. seizure and sale of personal property, including automobiles;
6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;
7. revocation, suspension, or denial of renewal of any applicable business license or permit;
8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; and
9. a penalty equal to three times the amount of the unsatisfied judgment plus attorney's fees, if there are other unpaid claims.

(b) Notice of judgment sent to judgment creditor shall contain but not be limited to the following information:

1. the claimant's right to payment within thirty days following the debtor's receipt of the judgment notice;

2. the procedures for use of section eighteen hundred twelve of this article concerning the identification of assets of the judgment debtor, including the use of information subpoenas, access to consumer credit reports and the role of sheriffs and marshals, and actions to collect three times the judgment award and attorney's fees if there are two other unsatisfied claims against the debtor;

3. the claimant's right to initiate actions to recover the unpaid judgment through the sale of the debtor's real property, or personal property;

4. the claimant's right to initiate actions to recover the unpaid judgment through suspension of debtor's motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

5. the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment as a basis for possible revocation, suspension, or denial of renewal of business license; and

6. a statement that upon satisfying the judgment, the judgment debtor shall present appropriate proof thereof to the court; and

7. the claimant's right to notify the attorney general if the debtor is a business and appears to be engaged in fraudulent or illegal business practices.

(c) Notice of judgment sent to each party shall include the following statement: "An appeal from this judgment must be taken no later than the earliest of the following dates: (i) thirty days after receipt in court of a copy of the judgment by the appealing party, (ii) thirty days after personal delivery of a copy of the judgment by another party to the action to the appealing party (or by the appealing party to another party), or (iii) thirty-five days after the mailing of a copy of the judgment to the appealing party by the clerk of the court or by another party to the action."

(d) All wholly or partially unsatisfied small claims court judgments

shall be indexed alphabetically and chronologically under the name of the judgment debtor. Upon satisfying the judgment, the judgment debtor shall present appropriate proof to the court and the court shall indicate such in the records.

§ 1812. Enforcement of small claims judgments. (a) The special procedures set forth in subdivision (b) hereof shall be available only where:

1. there is a recorded judgment of a small claims court; and

2. (i) the aforesaid judgment resulted from a transaction in the course of the trade or business of the judgment debtor, or arose out of a repeated course of dealing or conduct of the judgment debtor, and (ii) there are at least two other unsatisfied recorded judgments of a small claims court arising out of such trade or business or repeated course of dealing or conduct, against that judgment debtor; and

3. the judgment debtor failed to satisfy such judgment within a period of thirty days after receipt of notice of such judgment. Such notice shall be given in the same manner as provided for the service of a summons or by certified mail, return receipt requested, and shall contain a statement that such judgment exists, that at least two other unsatisfied recorded judgments exist, and that failure to pay such judgment may be the basis for an action, for treble the amount of such unsatisfied judgment, pursuant to this section.

(b) Where each of the elements of subdivision (a) of this section are present the judgment creditor shall be entitled to commence an action against said judgment debtor for treble the amount of such unsatisfied judgment, together with reasonable counsel fees, and the costs and disbursements of such action, provided, however, that in any such action it shall be a defense that the judgment debtor did not have resources to satisfy such judgment within a period of thirty days after receipt of notice of such judgment. The failure to pay a judgment obtained in an action pursuant to this section shall not be the basis for another such action pursuant to this section.

(c) Where the judgment is obtained in an action pursuant to subdivision (b), and arises from a business of the defendant, the court shall, in addition to its responsibilities under this article, advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, and if such judgment arises from a certified or licensed business of the defendant, advise the state or local licensing or certifying authority.

(d) Where a judgment has been entered in a small claims court and remains unsatisfied, the small claims clerk shall, upon request, issue information subpoenas, at nominal cost, for the judgment creditor and provide the creditor with assistance on their preparation and use. The court shall have the same power as the supreme court to punish a contempt of court committed with respect to an information subpoena.

§ 1813. Duty to pay judgments. (a) Any person, partnership, firm or corporation which is sued in a small claims court for any cause of action arising out of its business activities, shall pay any judgment rendered against it in its true name or in any name in which it conducts business. "True name" includes the legal name of a natural person and the name under which a partnership, firm or corporation is licensed, registered, incorporated or otherwise authorized to do business. "Conducting business" as used in this section shall include, but not be limited to, maintaining signs at business premises or on business vehicles; advertising; entering into contracts; and printing or using sales slips, checks, invoices or receipts. Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true name and the judgment has remained unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry, the aggrieved judgment creditor shall be entitled to commence an action in small claims court or in any other court of otherwise competent jurisdiction against such judgment debtor, notwithstanding the jurisdictional limit of the court, for the sum of the original judgment, costs, reasonable attorney's fees, and one hundred dollars.

(b) Whenever a judgment which relates to activities for which a license is required has been rendered against a business which is licensed by a state or local licensing authority and which remains

unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry and the judgment has not been stayed or appealed, the state or local licensing authority shall consider such failure to pay if deliberate or part of a pattern of similar conduct indicating recklessness, as a basis for the revocation, suspension, conditioning or refusal to grant or renew such license. Nothing herein shall be construed to preempt an authority's existing policy if it is more restrictive.

(c) The clerk shall attach to the notice of suit required under this article a notice of the duty imposed by this section.

§ 1814. Designation of defendant; amendment procedure. (a) A party who is ignorant, in whole or in part, of the true name of a person, partnership, firm or corporation which may properly be made a party defendant, may proceed against such defendant in any name used by the person, partnership, firm or corporation in conducting business, as defined in subdivision (a) of section eighteen hundred thirteen of this article.

(b) If the true name of the defendant becomes known at any time prior to the hearing on the merits, such information shall be brought to the attention of the clerk, who shall immediately amend all prior proceedings and papers. The clerk shall send an amended notice to the defendant, without payment of additional fees by the plaintiff, and all subsequent proceedings and papers shall be amended accordingly.

(c) In every action in the small claims part, at the hearing on the merits, the judge or arbitrator shall determine the defendant's true name. The clerk shall amend all prior proceedings and papers to conform to such determination, and all subsequent proceedings and papers shall be amended accordingly.

(d) A party against whom a judgment has been entered pursuant to this article, in any proceeding under section five thousand fifteen of the civil practice law and rules for relief from such judgment, shall, disclose its true name; any and all names in which it is conducting business; and any and all names in which it was conducting business at the time of the transaction or occurrence on which such judgment is based. All subsequent proceedings and papers shall be amended to conform

to such disclosure.

*** § 1815. Appearance by non-attorney representatives.** The court may permit, upon the request of a party, that a non-attorney representative, who is related by consanguinity or affinity to such party, be allowed to appear on behalf of such party when the court finds that due to the age, mental or physical capacity or other disability of such party that it is in the interests of justice to permit such representation. No person acting as a non-attorney representative shall be permitted to charge a fee or be allowed to accept any form of remuneration for such services.

* NB There are 2 § 1815's

*** § 1815. Access to daytime pro se part.** 1. Senior citizens, disabled persons and members of the work force whose normal work schedule requires them to work during evening hours may institute a small claims action or proceeding returnable to the daytime pro se part of the court.

2. The clerk of the court shall verbally inform all claimants who appear to qualify or who submit adequate documentation, upon commencement of the small claims action, of the right to have any small claims heard in the daytime pro se part upon such terms as provided herein. Notwithstanding any inconsistent provision of law, a claimant shall have the right upon presenting proof to the clerk that he is sixty-five years of age or older, that he is disabled as defined in subdivision twenty-one of section two hundred ninety-two of the executive law or that he is employed in a capacity which requires him to work during evening hours and the court shall proceed to hear the case according to the practice and procedure applicable to the small claims part.

3. The clerk of the court shall publicize the availability of such forum. Such publicity shall include but not be limited to prerecorded taped messages and large signs in English and Spanish to be posted in conspicuous locations in each small claims court clerk's office, advising the public of the availability.

* NB There are 2 § 1815's

ARTICLE 18-A
COMMERCIAL CLAIMS

Section 1801-A. Commercial claims defined.

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1813-A. Duty to pay judgments.

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§ 1801-A. Commercial claims defined. (a) The term "commercial claim" or "commercial claims" as used in this article shall mean and include any cause of action for money only not in excess of the maximum amount permitted for a small claim in the small claims part of the court, exclusive of interest and costs, provided that subject to the limitations contained in section eighteen hundred nine-A of this article, the claimant is a corporation, partnership or association, which has its principal office in the state of New York and provided that the defendant either resides, or has an office for the transaction of business or a regular employment, within the city of New York.

(b) Consumer transaction defined. The term "consumer transaction" means a transaction between a claimant and a natural person, wherein the money, property or service which is the subject of the transaction is

primarily for personal, family or household purposes.

§ 1802-A. Parts for the determination of commercial claims established. The chief administrator shall assign the times and places for holding, and the judges who shall hold, one or more parts of the court in each county for the hearing of commercial claims as herein defined, and the rules may regulate the practice and procedure controlling the determination of such claims and prescribe and furnish the forms for instituting the same. There shall be at least one evening session of each part every month for the hearing of commercial claims, provided however, that the chief administrator may provide for exemption from this requirement where there exists no demonstrated need for evening sessions. The chief administrator shall not combine commercial claims part actions with small claims part actions for purposes of convenience unless a preference is given to small claims and to commercial claims arising out of consumer transactions. Such practice, procedure and forms shall differ from the practice, procedure and forms used in the court for other than small claims and commercial claims, notwithstanding any provision of law to the contrary. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of commercial claims in accordance with the rules and principles of substantive law. The procedure established pursuant to this article shall not be exclusive of but shall be alternative to the procedure now or hereafter established with respect to actions commenced in the court by the service of a summons. No rule to be enacted pursuant to this article shall dispense with or interfere with the taking of stenographic minutes of any hearing of any commercial claim hereunder.

§ 1803-A. Commencement of action upon commercial claim. (a) Commercial claims other than claims arising out of consumer transactions shall be commenced upon the payment by the claimant of a filing fee of twenty-five dollars and the cost of mailings as herein provided, without the service of a summons and, except by special order of the court, without the service of any pleading other than a required certification verified as to its truthfulness by the claimant on a form prescribed by

the state office of court administration and filed with the clerk, that no more than five such actions or proceedings (including the instant action or proceeding) have been instituted during that calendar month, and a required statement of its cause of action by the claimant or someone in its behalf to the clerk, who shall reduce the same to a concise, written form and record it in a docket kept especially for such purpose. Such procedure shall provide that the commercial claims part of the court shall have no jurisdiction over, and shall dismiss, any case with respect to which the required certification is not made upon the attempted institution of the action or proceeding. Such procedure shall provide for the sending of notice of such claim by ordinary first class mail and certified mail with return receipt requested to the party complained against at his residence, if he resides within the city of New York, and his residence is known to the claimant, or at his office or place of regular employment within the city of New York if he does not reside therein or his residence within the city of New York is not known to the claimant. If, after the expiration of twenty-one days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim. Such notice shall include a clear description of the procedure for filing a counterclaim, pursuant to subdivision (d) of this section.

Such procedure shall further provide for an early hearing upon and determination of such claim. The hearing shall be scheduled in a manner which, to the extent possible, minimizes the time the party complained against must be absent from employment.

Either party may request that the hearing be scheduled during evening hours, provided that the hearing shall not be scheduled during evening hours if it would cause unreasonable hardship to either party. The court shall not unreasonably deny requests for evening hearings if such requests are made by the claimant upon commencement of the action or by the party complained against within fourteen days of receipt of the notice of claim.

(b) Commercial claims in actions arising out of consumer transactions shall be commenced upon the payment by the claimant of a filing fee of

twenty-five dollars and the cost of mailings as herein provided, without the service of a summons and, except by special order of the court, without the service of any pleading other than a required statement of the cause of action by the claimant or someone on its behalf of the clerk, who shall reduce the same to a concise written form including the information required by subdivision (c) of this section, denominate it conspicuously as a consumer transaction, and record it in the docket marked as a consumer transaction, and by filing with the clerk a required certificate verified as to its truthfulness by the claimant on forms prescribed by the state office of court administration.

Such verified certificate shall certify (i) that the claimant has mailed by ordinary first class mail to the party complained against a demand letter, no less than ten days and no more than one hundred eighty days prior to the commencement of the claim, and (ii) that, based upon information and belief, the claimant has not instituted more than five actions or proceedings (including the instant action or proceeding) during the calendar month.

A form for the demand letter shall be prescribed and furnished by the state office of court administration and shall require the following information: the date of the consumer transaction; the amount that remains unpaid; a copy of the original debt instrument or other document underlying the debt and an accounting of all payments, and, if the claimant was not a party to the original transaction, the names and addresses of the parties to the original transaction; and a statement that the claimant intends to use this part of the court to obtain a judgment, that further notice of a hearing date will be sent, unless payment is received by a specified date, and that the party complained against will be entitled to appear at said hearing and present any defenses to the claim.

In the event that the verified certificate is not properly completed by the claimant, the court shall not allow the action to proceed until the verified certificate is corrected. Notice of such claim shall be sent by the clerk by both ordinary first class mail and certified mail with return receipt requested to the party complained against at his

residence, if he resides within the city of New York, and his residence is known to the claimant, or at his office or place of regular employment within the city of New York if he does not reside therein or his residence within the city of New York is not known to the claimant. If, after the expiration of thirty days, such ordinary first class mailing has not been returned as undeliverable, the party complained against shall be presumed to have received notice of such claim.

Such procedure shall further provide for an early hearing upon and determination of such claim. The hearing shall be scheduled in a manner which, to the extent possible, minimizes the time the party complained against must be absent from employment. Either party may request that the hearing be scheduled during evening hours, provided that the hearing shall not be scheduled during evening hours if it would cause unreasonable hardship to either party. The court shall not unreasonably deny requests for evening hearings if such requests are made by the claimant upon commencement of the action or by the party complained against within fourteen days of receipt of the notice of claim.

(c) The clerk shall furnish every claimant, upon commencement of the action, and every party complained against, with the notice of claim, and with information written in clear and coherent language which shall be prescribed and furnished by the state office of court administration, concerning the commercial claims part. Such information shall include, but not be limited to, the form for certification and filing by the claimant that no more than five such actions or proceedings have been instituted during that calendar month, and an explanation of the following terms and procedures: adjournments, counterclaims, jury trial requests, evening hour requests, demand letters in cases concerning consumer transactions, default judgments, subpoenas, arbitration and collection methods, the responsibility of the judgment creditor to collect data on the judgment debtor's assets, the ability of the court prior to entering judgment to order examination of or disclosure by, the defendant and restrain him, and a statement in Spanish that such information is available in Spanish upon request. The information shall be available in English and Spanish. Large signs in English and Spanish shall be posted in conspicuous locations in each commercial claims part clerk's office, advising the public of its availability.

(d) A defendant who wishes to file a counterclaim shall do so by filing with the clerk a statement containing such counterclaim within five days of receiving the notice of claim. At the time of such filing the defendant shall pay to the clerk a filing fee of five dollars plus the cost of mailings which are required pursuant to this subdivision. The clerk shall forthwith send notice of the counterclaim by ordinary first class mail to the claimant. If the defendant fails to file the counterclaim in accordance with the provisions of this subdivision, the defendant retains the right to file the counterclaim, however the claimant may, but shall not be required to, request and obtain adjournment of the hearing to a later date. The claimant may reply to the counterclaim but shall not be required to do so.

§ 1804-A. Informal and simplified procedure on commercial claims. The court shall conduct hearings upon commercial claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or person with a mental illness. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in commercial claims procedure except upon order of the court on showing of proper circumstances. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 1805-A. Remedies available; transfer of commercial claims. (a) Upon determination of a commercial claim, the court shall direct judgment in accordance with its findings, and, when necessary to do substantial

justice between the parties, may condition the entry of judgment upon such terms as the court shall deem proper. Pursuant to section fifty-two hundred twenty-nine of the civil practice law and rules, prior to entering a judgment, the court may order the examination of or disclosure by, the defendant and restrain him to the same extent as if a restraining notice had been served upon him after judgment was entered.

(b) The court shall have power to transfer any commercial claim or claims to any other part of the court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the court.

(c) No counterclaim shall be permitted in a commercial claims action, unless the court would have had monetary jurisdiction over the counterclaim if it had been filed as a commercial claim. Any other claim sought to be maintained against the claimant may be filed in any court of competent jurisdiction.

(d) If the defendant appears to be engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transaction of business, the court shall either advise the attorney general in relation to his authority under subdivision twelve of section sixty-three of the executive law, or shall advise the claimant to do same, but shall retain jurisdiction over the commercial claim.

(e) If the defendant appears to be engaged in fraudulent or illegal acts or otherwise demonstrates fraud or illegality in the carrying on, conducting or transaction of a licensed or certified business, the court shall either advise the appropriate state or local licensing or certifying authority or shall advise the claimant to do same, but shall retain jurisdiction over the commercial claim.

§ 1806-A. Trial by jury; how obtained; discretionary costs. A claimant commencing an action upon a commercial claim under this article shall be deemed to have waived a trial by jury, but if said action shall be removed to a regular part of the court, the claimant shall have the same right to demand a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the claimant, prior to the day upon which he is notified to appear or answer, may file

with the court a demand for a trial by jury and his affidavit that there are issues of fact in the action requiring such a trial, specifying the same and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of fifty dollars in such form as may be approved by the rules, payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him in the said action or any appeal within thirty days after the entry thereof; or, in lieu of said undertaking, the sum of fifty dollars may be deposited with the clerk of the court and thereupon the clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules to the part of the court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons. Such action may be considered a preferred cause of action. In any commercial claim which may have been transferred to another part of the court, the court may award costs up to twenty-five dollars to the claimant if the claimant prevails.

§ 1807-A. Proceedings on default and review of judgments. (a) A claimant commencing an action upon a commercial claim under this article shall be deemed to have waived all right to appeal, except that either party may appeal on the sole grounds that substantial justice has not been done between the parties according to the rules and principles of substantive law.

(b) The clerk shall mail notice of the default judgment by first class mail, both to the claimant and to the party complained against. Such notice shall inform the defaulting party, in language promulgated by the state office of court administration, of such party's legal obligation to pay; that failure to pay may result in garnishments, repossessions, seizures and similar actions; and that if there was a reasonable excuse for the default, the defaulting party may apply to have the default vacated by submitting a written request to the court.

(c) Proceedings on default under this article are to be governed by, but are not limited to, section five thousand fifteen of the civil practice law and rules.

§ 1808-A. Judgment obtained to be res judicata in certain cases. A judgment obtained under this article shall not be deemed an adjudication of any fact at issue or found therein in any other action or court; except that a subsequent judgment obtained in another action or court involving the same facts, issues and parties shall be reduced by the amount of a judgment awarded under this article.

§ 1809-A. Procedures relating to corporations, associations, insurers and assignees. (a) Any corporation, including a municipal corporation or public benefit corporation, partnership, or association, which has its principal office in the city of New York and an assignee of any commercial claim may institute an action or proceeding under this article.

(b) No person or co-partnership, engaged directly or indirectly in the business of collection and adjustment of claims, and no corporation or association, directly or indirectly, itself or by or through its officers, agents or employees, shall solicit, buy or take an assignment of, or be in any manner interested in buying or taking an assignment of a bond, promissory note, bill of exchange, book debt, or other thing in action, or any claim or demand, with the intent and for the purpose of bringing an action or proceeding thereon under this article.

(c) A corporation, partnership or association, which institutes an action or proceeding under this article shall be limited to five such actions or proceedings per calendar month. Such corporation, partnership or association shall complete and file with the clerk the required certification, provided it is true and verified as to its truthfulness, as a prerequisite to the institution of an action or proceeding in this part of the court.

(d) A corporation may appear as a party in any action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine

the authority of any person who appears for the corporation in a commercial claims part case.

§ 1810-A. Limitation on right to resort to commercial claims procedures. If the clerk shall find that the procedures of the commercial claims part are sought to be utilized by a claimant for purposes of oppression or harassment, as where a claimant has previously resorted to such procedures on the same claim and has been unsuccessful after the hearing thereon, the clerk may in his discretion compel the claimant to make application to the court for leave to prosecute the claim in the commercial claims part. The court upon such application may inquire into the circumstances and, if it shall find that the claim has already been adjudicated, or that the claim is sought to be brought on solely for purposes of oppression or harassment and not under color of right, it may make an order denying the claimant the use of the commercial claims part to prosecute the claim.

§ 1811-A. Indexing commercial claims part judgments. All wholly or partially unsatisfied commercial claims part judgments shall be indexed alphabetically and chronologically under the name of the judgment debtor. Upon satisfying the judgment, the judgment debtor shall present appropriate proof to the court and the court shall indicate such in the records.

§ 1812-A. Enforcement of commercial claims judgments. Where a judgment has been entered in a commercial claims part and remains unsatisfied, the commercial claims clerk shall, upon request, issue information subpoenas, at nominal cost, for the judgment creditor and provide the creditor with assistance on their preparation and use.

§ 1813-A. Duty to pay judgments. (a) Any person, partnership, firm or corporation which is sued in a commercial claims part for any cause of action arising out of its business activities, shall pay any judgment

rendered against it in its true name or in any name in which it conducts business. "True name" includes the legal name of a natural person and the name under which a partnership, firm or corporation is licensed, registered, incorporated or otherwise authorized to do business.

"Conducting business" as used in this section shall include, but not be limited to, maintaining signs at business premises or on business vehicles; advertising; entering into contracts; and printing or using sales slips, checks, invoices or receipts. Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true name and the judgment has remained unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry, the aggrieved judgment creditor shall be entitled to commence an action in commercial claims part or in any other court of otherwise competent jurisdiction against such judgment debtor, notwithstanding the jurisdictional limit of the court, for the sum of the original judgment, costs, reasonable attorney's fees, and one hundred dollars.

(b) Whenever a judgment which relates to activities for which a license is required has been rendered against a business which is licensed by a state or local licensing authority and which remains unpaid for thirty-five days after receipt by the judgment debtor of notice of its entry and the judgment has not been stayed or appealed, the state or local licensing authority shall consider such failure to pay if deliberate or part of a pattern of similar conduct indicating recklessness, as a basis for the revocation, suspension, conditioning or refusal to grant or renew such license. Nothing herein shall be construed to preempt an authority's existing policy if it is more restrictive.

(c) The clerk shall attach to the notice of suit required under this article a notice of the duty imposed by this section.

§ 1814-A. Designation of defendant; amendment procedure. (a) A party who is ignorant, in whole or in part, of the true name of a person, partnership, firm or corporation which may properly be made a party defendant, may proceed against such defendant in any name used by the person, partnership, firm or corporation in conducting business, as defined in subdivision (a) of section eighteen hundred thirteen-A of

this article.

(b) If the true name of the defendant becomes known at any time prior to the hearing on the merits, such information shall be brought to the attention of the clerk, who shall immediately amend all prior proceedings and papers. The clerk shall send an amended notice to the defendant, without payment of additional fees by the plaintiff, and all subsequent proceedings and papers shall be amended accordingly.

(c) In every action in the commercial claims part, at the hearing on the merits, the judge or arbitrator shall determine the defendant's true name. The clerk shall amend all prior proceedings and papers to conform to such determination, and all subsequent proceedings and papers shall be amended accordingly.

(d) A party against whom a judgment has been entered pursuant to this article, in any proceeding under section five thousand fifteen of the civil practice law and rules for relief from such judgment, shall disclose its true name; any and all names in which it is conducting business; and any and all names in which it was conducting business at the time of the transaction or occurrence on which such judgment is based. All subsequent proceedings and papers shall be amended to conform to such disclosure.

ARTICLE 19

COSTS AND FEES

- Section 1900. Security for costs.
1901. Amount of costs in an action.
1903. Costs; additional provisions.
1904. Certain costs added; additional allowance.
1905. No costs on plea of bankruptcy.
1906. Costs allowed by court.
- 1906-a. Costs in a summary proceeding.
1907. Taxation of costs and disbursements.
1908. Disbursements allowable.
- 1908-a. Disbursement where service of process by mail is not acknowledged.
1909. Review of taxation.
1910. Costs upon appeal.

- 1911. Fees payable to the clerk.
- 1912. Actions in which no fees to be charged; employees; state or city actions.
- 1913. Witnesses' fees.
- 1914. Stenographer's fees.
- 1915. Fees of sheriff and marshal.

§ 1900. Security for costs. Article 85 of the CPLR, entitled "security for costs", shall apply in this court, except that the minimum undertaking of CPLR 8503 shall be \$200 rather than the amount therein provided.

§ 1901. Amount of costs in an action. (a) Ordinary costs. Except as provided in subdivisions (b) and (c) of this section, costs awarded in an action shall be in the amount of:

1. fifty dollars for all proceedings before a notice of trial is filed; plus

2. one hundred dollars for all proceedings after a notice of trial is filed and before trial; plus

3. one hundred fifty dollars for each trial, inquest or assessment of damages.

(b) Limited costs in certain actions. Costs awarded in an action for a sum of money only where the amount of the judgment is not more than six thousand dollars, shall be in the amount of:

1. twenty dollars for all proceedings before a notice of trial is filed; plus

2. thirty-five dollars for all proceedings after a notice of trial is filed and before trial; plus

3. sixty dollars for each trial, inquest or assessment of damages.

(c) This section shall not apply to costs in a summary proceeding or in a small claims actions.

§ 1903. Costs; additional provisions. The provisions of CPLR §§ 8101, 8103, 8104, 8105 and 8106 shall apply in actions and proceedings in this court.

§ 1904. Certain costs added; additional allowance. (a) Certain costs added. Costs on appeal, and those awarded under § 1102 of this act, may be added to the amount of costs otherwise applicable in the action.

(b) Additional allowance.

1. Section 8302 of the CPLR, relating to an additional allowance as of right in certain real property actions in which plaintiff has recovered judgment, shall apply in this court. The allowance so calculated shall be added to the amount of costs first calculated under other provisions of this article without reference to CPLR § 8302.

2. Section 8303 (a) of the CPLR, relating to an additional allowance in the court's discretion in certain actions, shall apply in this court to an action within its jurisdiction which falls within CPLR § 8303 (a). The allowance so calculated shall be added to the amount of costs first calculated under other provisions of this article without reference to CPLR § 8303 (a).

(c) Discretionary allowance on enforcement motion. Section 8303 (b) of the CPLR, relating to costs on a motion relating to the enforcement of a judgment, shall apply in this court without reference to the foregoing subdivisions of this section.

§ 1905. No costs on plea of bankruptcy. Where the defendant recovers judgment upon the defense of bankruptcy, he shall not be entitled to costs.

§ 1906. Costs allowed by court. The court may in its discretion impose costs not exceeding fifty dollars in the following cases:

- (a) Upon granting or denying a motion.
- (b) Upon allowing an amendment of a pleading.
- (c) Upon adjournment of a trial.

§ 1906-a. Costs in a summary proceeding. In a summary proceeding to recover possession of real property, petitioner shall be allowed as costs for each necessary respondent served with the notice of petition by a person other than a sheriff or marshal, five dollars, and if there is a default in appearance by the respondent, the sum of five dollars for securing the affidavit that the respondent is not in military service, required by the statutes of the United States; plus as a disbursement, the fee paid pursuant to § 1911 (k) of this act. Such costs shall be exclusive in such proceeding and shall constitute the sum to be awarded as cost by the judgment pursuant to § 747 of the real property actions and proceedings law, except insofar as additional costs may be imposed pursuant to subdivision three of said section.

§ 1907. Taxation of costs and disbursements. Costs, together with fees paid to the clerk and the fee for issuing execution to the sheriff or marshal, must be taxed by the clerk forthwith upon rendition of judgment and inserted therein. Upon issuing a transcript the clerk shall include therein the prospective fees of the county clerk and sheriff. Other taxable disbursements shall be taxed by the clerk on two days' notice to be given by the party entitled thereto to the adverse party. The clerk shall also tax costs allowed by an appellate court and shall enter all items of costs and disbursements in the docket book. All disbursements taxable on notice must be verified by affidavit. The clerk must examine all items presented to him for taxation and, before allowing any disbursements, must be satisfied that the items were necessarily incurred or that the services for which they are charged were necessarily performed.

§ 1908. Disbursements allowable. Except where the contrary is specifically provided by law, a party to whom costs are awarded, or a prevailing party who has appeared in person, shall be allowed his necessary disbursements as follows:

(a) All fees paid to the clerk, the sheriff or a marshal, including jury fees, and the reasonable expense of serving process where service is made by other than the sheriff or a marshal.

(b) The legal fees of witnesses.

(c) The legal fees paid for a certified copy of a deposition or other paper recorded or filed in any public office, necessarily used or obtained for use on the trial.

(d) The reasonable compensation of commissioners for taking depositions.

(e) Prospective charges for filing a transcript with the county clerk and the sheriff's fees for receiving and returning an execution.

(f) Such other reasonable and necessary expenses as are taxable pursuant to the provisions of CPLR § 8301.

§ 1908-a. Disbursement where service of process by mail is not acknowledged. In any action where service of process is made by mail pursuant to CPLR 312-a, and where the signed acknowledgement of receipt is not returned within thirty (30) days after receipt of the documents mailed pursuant to that section, the reasonable expense of serving process by an alternative method shall be taxed by the court as a disbursement, payable to the party serving process, if that party is awarded costs in the action or proceeding.

§ 1909. Review of taxation. Within ten days the clerk's taxation may be reviewed by the court upon two days' notice. The order must disallow any items wrongfully included in the judgment or add any items wrongfully omitted therefrom, and direct that any sum so disallowed be credited upon any execution or other mandate issued to enforce the judgment. Unless a motion for review of the taxation is made, the clerk's taxation cannot be questioned on appeal.

§ 1910. Costs upon appeal. (a) Costs upon an appeal may be awarded by the appellate court in its discretion, and if awarded shall be as follows:

1. To the appellant upon reversal, not more than thirty dollars.
2. To the respondent upon affirmance, not more than twenty-five dollars.
3. To either party upon modification, not more than twenty-five dollars.

(b) Costs upon appeal from the judgment or order of the appellate court shall be as provided in the CPLR.

§ 1911. Fees payable to the clerk. There shall be paid to the clerk the following sums as court fees in an action:

(a) Upon issuance of a summons, order of arrest or attachment, or requisition or warrant of seizure by the clerk, together with copies thereof, forty-five dollars.

(b) Upon filing summons with proof of service thereof, or upon filing of the first paper in that county in any action or proceeding, forty-five dollars, unless there has been paid in that county a fee of forty-five dollars pursuant to subdivision (a) of this section.

(b-1) Upon filing the first paper in an action or proceeding arising out of a consumer credit transaction as defined in subdivision (f) of section one hundred five of the civil practice law and rules, an additional ninety-five dollars.

(c) Upon filing an infant's compromise, where no summons was filed, forty dollars.

(d) On filing a notice of trial, forty dollars.

(e) For entry of judgment upon confession, forty-five dollars, unless there has been paid a fee pursuant to subdivision (a) or subdivision (b) hereof.

(f) On filing notice of appeal, thirty dollars.

(g) For issuing a satisfaction of judgment, or a certificate regarding

the judgment, six dollars.

(h) Upon demand for a trial by jury, seventy dollars; to be paid by the party demanding the jury, at the time of demand.

(i) For exemplification of any paper filed, fifteen dollars.

(j) For certifying a copy of a paper on file in the clerk's office, six dollars.

(k) For issuing a notice of petition, or an order to show cause in lieu thereof, in a summary proceeding to recover possession of real property, forty-five dollars.

(l) For issuing a petition for change of name, sixty-five dollars.

(m) For any other matter, not provided for above, for which there would be a fee payable in the supreme court of a county within the city of New York, the same fee; except that this subdivision shall not apply to the fees required to be paid in supreme court (i) upon the filing of a motion or cross-motion pursuant to subdivision (a) of section 8020 of the civil practice law and rules, and (ii) upon the filing of a stipulation of settlement or a voluntary discontinuance pursuant to subdivision (d) of such section.

(n) Upon the filing of a judgment by a plaintiff on or after September first, two thousand ten in an action or proceeding arising out of a consumer credit transaction as defined in subdivision (f) of section one hundred five of the civil practice law and rules, ninety-five dollars, provided such action or proceeding was commenced prior to such date and no additional fee was paid therein pursuant to subdivision (b-1) of this section.

All fees shall be prepaid before the service shall be performed.

§ 1912. Actions in which no fees to be charged; employees; state or city actions. (a) Employee's action. When the action is brought by an employee against an employer for services performed by such employee, the clerk shall not demand or receive any fees whatsoever from the plaintiff or his attorney, if the plaintiff shall present proof by his own affidavit that his demand does not exceed three hundred dollars exclusive of interest and costs; that he is a resident of or an employee in the city of New York; that he has a good and meritorious cause of

action against the defendant and the nature thereof; and that he has made either a written or a personal demand upon the defendant or his agent for payment thereof and payment was refused; provided that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor.

(b) State or city actions. In an action brought in the name of the people of the state of New York by the attorney-general, or in the name of the city of New York or of any department, board or officer thereof, by the corporation counsel or any municipal department, board or officer of the city of New York, for the recovery of a penalty, no fees shall be required to be paid by the plaintiff to the clerk and no costs shall be taxed against the plaintiff; but in case such plaintiff recovers judgment, the costs and taxable disbursements shall be included therein, and if collected shall be accounted for.

§ 1913. Witnesses' fees. Witnesses in an action or a special proceeding or before a commissioner or judge of this court taking a deposition, are entitled to the same fees, including mileage, as a witness in an action in the supreme court.

§ 1914. Stenographer's fees. In all cases of appeal from an order or judgment, where a transcript of the stenographer's minutes or mechanical record of the testimony given on trial or hearing becomes a necessary part of the return on appeal, the stenographer's fees for making up such transcript shall be thirty cents for each folio and shall be paid in the first instance by the appellant and be taxable by him as a disbursement on the appeal; provided, however, that in any case in which an appeal has been taken by the city of New York or by any department, board or officer thereof, the stenographer, upon demand of the corporation counsel or the department, board or officer of the city shall, within ten days, make up the transcript as herein provided and furnish a copy of such transcript to the corporation counsel or the department, board or officer, the stenographer's fees in such case to be audited and paid by the comptroller of the city of New York out of the fund or appropriations applicable thereto.

§ 1915. Fees of sheriff and marshal. In performing a function within their respective jurisdiction and powers as elsewhere provided in this act, the sheriff of the city of New York and the city marshals shall be allowed and paid the same fees to which a sheriff would be entitled for like services in supreme court.

ARTICLE 21

GENERAL

Section 2101. Definitions.

2102. Civil practice; general provisions; CPLR applicable.

2103. Rules of court.

2103-a. Use of electronic filing authorized.

2104. References to predecessor courts.

§ 2101. Definitions. The following words used in this act shall have the meaning attached to them in this section, unless otherwise apparent from the context:

(a) "Attorney" means a duly licensed attorney of the supreme court of this state.

(b) "Clerk" means the chief clerk or any other clerk or person, regardless of title, designated by the appellate division to perform the function referred to in the particular section.

(c) "Real property action" or "real property actions" mean an action or actions provided for in § 203 of this act.

(d) "Appellate division" means the appellate divisions of the supreme court in the first and second judicial departments or the administrative judge or judges designated as provided by law to perform the function referred to in the particular section.

(e) "Rule" and "rules" mean such rule or rules as may be promulgated pursuant to § 2103 of this act.

(f) "Marshal", "marshals", "city marshal" and "city marshals" mean a marshal or marshals of the city of New York as provided in § 1601 of this act.

(g) "Consumer credit transaction" means a transaction wherein credit is extended to an individual and the money, property, or service which is the subject of the transaction is primarily for personal, family or household purposes.

§ 2102. Civil practice; general provisions; CPLR applicable. The CPLR and other provisions of law relating to practice and procedure in the supreme court, notwithstanding reference by name or classification therein to any other court, shall apply in this court as far as the same can be made applicable and are not in conflict with this act.

§ 2103. Rules of court. The appellate divisions of the first and second judicial departments shall jointly adopt rules to implement and facilitate procedure in this court, consistent with standards and policies adopted by the administrative board of the judicial conference. Such rules shall be uniform to the extent practicable. The administrative board may promulgate such uniform rule or rules in the event the appellate divisions are unable to agree.

§ 2103-a. Use of electronic filing authorized. 1. Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in the civil court of the city of New York as provided in article twenty-one-A of the civil practice law and rules.

2. For purposes of this section, "electronic means" shall be as defined in subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 2104. References to predecessor courts. A reference in any general or special statute, law, local law, ordinance, resolution, rule, regulation or order to the city court of the city of New York or to the municipal court of the city of New York shall be deemed a reference to

this court if such substituted reference be consistent with this act and with all other provisions of law applicable to this court.

ARTICLE 22

TRANSITION

Section 2201. Justices of abolished courts to be judges of this court.

2202. Referees.

2203. Cases in abolished courts carried over.

2204. Appeal involving abolished court; judgment or order of abolished court.

2205. Facilities, equipment and supplies.

2206. Appropriations for abolished courts carried over.

2207. Predecessor court acts repealed.

2300. Effective date.

§ 2201. Justices of abolished courts to be judges of this court. The justices of the city court of the city of New York and the justices of the municipal court of the city of New York in office on the date such courts are abolished shall, for the remainder of the term for which each was elected or appointed, be judges of this court.

§ 2202. Referees. An official referee of the city court of the city of New York or of the municipal court of the city of New York in office at the time this act takes effect shall for the remainder of his term of office be an official referee of this court. He shall perform such duties and discharge such functions in this court as would an official referee of the supreme court perform and discharge therein, or such duties and functions as may be assigned to him by the appellate division.

§ 2203. Cases in abolished courts carried over. All actions and proceedings pending in the city court of the city of New York or the municipal court of the city of New York at the time this act takes

effect shall be deemed pending in this court and shall be governed by the following subdivisions of this section.

(a) Transfer to this court.

(1) If the action or proceeding was pending in the city court of the city of New York, it shall be transferred to this court in the county in which it was pending in the city court.

(2) If the action or proceeding was pending in the municipal court of the city of New York, it shall be transferred to this court in the county embracing the district in which it was pending in the municipal court.

(b) No such action or proceeding, or appeal taken therein, shall abate by virtue of the abolition of said courts.

(c) For the purpose of the disposition of such actions and proceedings only, the jurisdiction of this court shall be deemed:

(1) expanded to that of the abolished court whenever necessary to sustain the jurisdiction of this court over such action or proceeding if the abolished court had jurisdiction of the same; and

(2) contracted to that of the abolished court so as to prevent this court from giving relief of such nature or in such amount as could not be given by the abolished court.

(d) Except as provided for in the foregoing, practice and procedure in such actions and proceedings shall be as if the same were instituted in this court after the effective date of this act. But if the court shall find that a practice or procedure available in the abolished court, but unavailable under this act, is necessary to the disposition of such action or proceeding, the court may permit recourse to or completion of the same.

§ 2204. Appeal involving abolished court; judgment or order of abolished court. (a) If on the effective date of this act there existed a right of appeal from a judgment or order entered before the effective date of this act in either the city court or the municipal court of the city of New York, and the time in which to appeal as provided for in the practice obtaining in those courts has not expired, such time shall continue to run as if such courts were not abolished and an appeal may be taken within such time by the service of a notice of appeal upon the

respondent or respondents and by the filing of the same with the clerk of this court in the county wherein, or embracing the district wherein, the judgment or order was entered in the abolished court.

(b) Such appeal shall be taken to the appellate division of the appropriate department, and may be transferred by such appellate division to an appellate term of such department if such term be established. Further appeal from either of such courts shall be governed by the same provisions as would govern judgments or orders entered in this court after the effective date of this act.

(c) If the judgment or order is entered by this court after the effective date of this act, it shall be treated, for purposes of appeal, as if the action or proceeding was commenced in this court, except as provided in subdivision (d).

(d) If in any action or proceeding decided prior to the effective date of this act, a party had a right of direct appeal from one of the abolished courts to the court of appeals, such appeal may be taken directly to the court of appeals during the time such party would have had under the practice obtaining in the abolished court as if such court were not abolished; and if the judgment or order in such case is entered in this court after the effective date of this act, the time in which to take such direct appeal shall be governed by the practice obtaining in the abolished court as if such court entered the judgment or order. The notice of appeal, if not filed as of the effective date of this act, shall be served on the respondent or respondents and shall be filed with the clerk of this court in the county wherein, or embracing the district wherein, the judgment or order was or would have been entered in the abolished court.

(e) For all purposes except appeal, a judgment or order entered by either abolished court shall be treated as if the action or proceeding in which the same was entered was commenced in this court and the judgment or order entered herein.

§ 2205. Facilities, equipment and supplies. All buildings, courtrooms, offices, furniture, equipment, supplies, seals, records, papers and documents, and all other facilities and possessions of the city court of the city of New York and the municipal court of the city of New York, or

in the custody of or allotted to said courts, on the effective date of this act shall be vested in this court. This court shall continue to occupy and use the buildings, courtrooms and other facilities so transferred until such time as other proper and adequate facilities are provided, and the use to be made of such transferred facilities, and of any other facilities, shall be determined by the appellate division.

§ 2206. Appropriations for abolished courts carried over. All budgetary appropriations made by the city of New York for the use and requirements of the city or municipal courts of said city, for the fiscal year of the city of New York in which this act takes effect, and unexpended balances thereof for prior years, shall be, so far as needed, allotted and transferred to the use of this court.

§ 2207. Predecessor court acts repealed. The city court of the city of New York and the municipal court of the city of New York are hereby abolished. The New York city court act and the New York city municipal court code and all acts amendatory thereof are hereby repealed, and the rules of the city court of the city of New York and of the municipal court of the city of New York are hereby abrogated.

§ 2300. Effective date. This act shall take effect September first, nineteen hundred sixty-two.