

CHAPTER 565

AN ACT to provide a uniform jurisdiction, practice and procedure for district courts in the state of New York and to implement the integration of the district courts into the unified court system for the state as contemplated by sections one and sixteen of 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 23, 1963, 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:

UNIFORM DISTRICT COURT ACT

- Article 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.
17. Appeals.
18. Small claims.
- 18-A. Commercial claims.
19. Costs and fees.
20. Criminal jurisdiction and procedure.
21. General.
23. Application.
- XXIV. District court: organization.
- XXV. Civil and criminal jurisdiction and procedure.
- XXVI. General provisions.

ARTICLE 1
ORGANIZATION

Section 101. Short title.

102. Application of UDCA; court of record; seal.

103. Judges.

105. Powers and duties of non-judicial personnel.

106. Non-judicial personnel; compensation; oath; bond.

Section 101. Short title.

This act shall be known as the uniform district court act, and may be cited as "UDCA".

§ 102. Application of UDCA; court of record; seal. The jurisdiction of and practice and procedure in each district court governed by the UDCA shall be as prescribed herein, and such court shall be a court of record and a part of the unified court system for the state. Such court in each county shall have an official seal to be furnished by the county upon which shall be engraved the words "District Court of (insert name of county), New York, Seal".

§ 103. Judges.

(a) In each judicial district there shall be elected such number of judges as may be provided by law.

(b) The judges of the court shall be elected for a term of six years from and including the first day of January following such election.

(c) No person, other than one who holds such office when this act is made applicable in the court, may serve in the office of judge of the court unless he or she is a resident elector of the district from which he or she has been elected and has been admitted to practice law in this state for at least five years as of the date he or she commences the duties of office.

(d) A judge of the court may not:

1. hold any other public office or trust except member of a constitutional convention or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

2. be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he resigns his judicial office; in the event that a judge or justice does not so resign his judicial office within ten days after his acceptance of the nomination of such other office, his judicial office shall become vacant and the vacancy shall be filled in the manner provided by law;

3. hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

4. engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his judicial duties.

(e) The appellate division of the supreme court may remove a judge of the district court for cause or retire him for disability after due notice and hearing, under such procedures as may be established by law.

(f) A vacancy in the office of judge, occurring otherwise than by expiration of term, shall be filled for a full term of six years at the next general election held not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the supervisors elected in the towns and cities comprising the county district court system, or if the county has a county executive, said county executive subject to confirmation by the supervisors elected in the towns and cities comprising the county district court system, may fill such vacancy by an appointment which shall continue until and including the last day of December next after the general election at which the vacancy shall be filled. In such case the person appointed must be a

resident in the district from which such office is required by this act to be filled by election.

§ 105. Powers and duties of non-judicial personnel.

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

(b) Enforcement officers; police officers. The enforcement officers of the court shall perform the same duties as are performed by sheriffs in courts of record and shall have, within their territorial jurisdiction and subject to any limitations imposed by this act or by other provision of law, such power to serve and execute the processes and mandates of the court as a sheriff has with regard to the processes and mandates of the supreme court. They shall also have, within their territorial jurisdiction, all of the powers in criminal matters of a constable of a town in the state of New York. It shall also be the duty of the police officers of the county, or of any city, town or village therein, to execute all criminal processes and mandates of the court. Neither an enforcement officer nor a police officer shall receive any fee or compensation for the service or execution of any criminal process or mandate issued out of the court.

(c) Records of enforcement officers. Each of the court's enforcement officers shall keep a record of official acts performed by him upon or in conjunction with the court's process or mandate. The rules may prescribe the manner in which such records shall be maintained.

§ 106. Non-judicial personnel; compensation; oath; bond.

The compensation of non-judicial employees shall be fixed within the amounts provided by law.

The court's enforcement officer shall account for and pay over to the county treasurer any fees which he receives upon or in connection with the court's process or mandate in like manner as the clerk.

Before entering upon the discharge of his official duties, each employee shall take the oath of office prescribed by law and file it in the office of the county clerk.

The court's enforcement officers shall execute and file in the office of the county clerk a bond, in an amount fixed and to be approved by the appellate division, conditioned for the faithful performance of their duties.

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 de novo review under part 137 of the rules of the chief administrator of the courts (22 NYCRR Part 137).
 - 213. Jurisdiction of justices of the peace.

§ 201. Jurisdiction; in general.

The court shall have jurisdiction as set forth in this article and as elsewhere provided by law. The phrase "\$15,000", whenever it appears herein, shall be taken to mean "\$15,000 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 \$15,000.

§ 203. Actions involving real property. (a) The court shall have jurisdiction of the following actions provided that the real property involved is located in whole or in part within a district of the court in the county:

(1) An action for the establishment of a mechanic's lien on real property to recover a personal judgment for the amount due, where the lien asserted does not, at the time the action is commenced, exceed \$15,000.

(2) 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, the multiple residence law, and any applicable local housing maintenance codes, building codes and health codes.

(3) An action to recover costs, expenses and disbursements incurred by any political subdivision of the state located in whole or in part within a district of the court in the elimination or correction of a nuisance or other violation of any law described in paragraph (2) of this subdivision, or in the removal or demolition of any building pursuant to such law or laws.

(4) 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 any political subdivision of the state located in whole or in part within a district of the court in the elimination of a nuisance or other violation of any law described in paragraph (2) of this subdivision, or in the removal or demolition of

any building pursuant to such law or laws.

(5) Actions or proceedings for the removal of housing violations recorded pursuant to any law described in paragraph (2) of this subdivision, or for the imposition of such violation or for the stay of any penalty thereunder.

(6) 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 paragraph (2) of this subdivision.

(7) Special proceedings to vest title in any political subdivision of the state located in whole or in part within a district of the court to abandoned multiple dwellings.

(8) Actions and proceedings under article 7-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 § 755 of the real property actions and proceedings law, relating to stay of proceedings or action for rent upon failure to make repairs and § 302-a of the multiple dwelling law, as applicable, relating to the abatement of rent in case of certain violations of local housing codes.

(9) 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.

The department of any political subdivision of the state located in whole or in part within a district of the court charged with enforcing the multiple dwelling law, multiple residence 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 (2), (3), (4), (5), (6), and (9) of this subdivision by an order to show cause, returnable within five days, or within any other time at the discretion of the court. Upon the signing of such order, the clerk of the district court shall issue an index number.

(b) On the application of any department of any political subdivision of the state located in whole or in part within a district of the court, any party, or on its own motion, the district 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 said remedy, program, procedure or sanction 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 any political subdivision of the state located in whole or in part within a district of the court, 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 department of such political subdivision that is 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, a department of any political subdivision of the state located within a district of the court or the district court, on its own motion, may join any other person or department of any political subdivision of the state located within a district of the court as a party in order to effectuate proper housing maintenance standards and to promote the public interest.

§ 204. Summary proceedings.

The court shall have jurisdiction of summary proceedings to recover possession of real property located in whole or in part within a district of the court in the county, to remove tenants therefrom, and to render judgment for rent due without regard to amount. Except as otherwise prohibited pursuant to subdivision three of section seven

hundred ninety-seven of the real property actions and proceedings law, the court shall have jurisdiction of summary proceedings commenced under article seven-D of the real property actions and proceedings law relating to real property located in whole or in part within the district, and render relief authorized therein.

§ 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 \$15,000.

§ 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 arises 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.

§ 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 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 \$15,000.

§ 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

(2-a) the activity complained of has as its basis a violation of local law or ordinance relating to land use, building regulation or fire prevention in which case, upon the motion of the prosecuting attorney in accordance with CPLR article 63, the court may issue a preliminary injunction or a temporary restraining order restraining such activity; or

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

(4) pursuant to § 306 of the multiple dwelling law, as applicable, or pursuant to the multiple residence law, as applicable, or pursuant to

applicable provisions of local housing maintenance codes, 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 brought pursuant to subdivision 5 of § 309 of the multiple dwelling law, as applicable, relative to the appointment of a receiver for the recovery of costs, expenses and disbursements incurred by any political subdivision of the state 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.

§ 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 \$15,000 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 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 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 in which the amount in dispute does not exceed fifteen thousand dollars.

§ 213. Jurisdiction of justices of the peace. The court shall have:

(a) concurrently, the jurisdiction of the justices of the peace of such towns of the county as comprise the district court, and

(b) in any such town wherein there is no justice of the peace, the jurisdiction such justice would have if there were such office and officer.

ARTICLE 3

VENUE

Section 300. Venue; when venue provisions applicable.

301. Transitory actions; venue.

302. Mechanic's lien; venue.

303. Summary proceedings; venue.

304. Actions by or against county; venue.

305. Assignees; corporations and associations.

306. Change of venue; procedure.

307. Venue; rules.

§ 300. Venue; when venue provisions applicable.

The provisions of this article shall apply only in a county having two or more districts comprising its district court, and it shall not be necessary that such districts within such county be contiguous.

§ 301. Transitory actions; venue.

An action, other than an action to establish a mechanic's lien on real property, shall be brought:

(a) in the district in which one of the parties resides at the commencement thereof; or

(b) if no party then resides in such district, in the district 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 such district, in the district in which the cause of action arose; or

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

§ 302. Mechanic's lien; venue.

An action to establish a mechanic's lien on real property shall be brought in the district in which such property or a part thereof is situated.

§ 303. Summary proceedings; venue.

A summary proceeding to recover possession of real property or to remove tenants therefrom shall be brought in the district in which such property or a part thereof is situated.

§ 304. Actions by or against county; venue.

(a) An action by or on behalf of the county or any department thereof, to recover a fine or penalty, shall be brought in the district where the

cause of action arose.

(b) An action against the county shall be brought in the district where the cause of action arose. If the cause of action did not arise in a district of the court in the county, it may be brought in any district.

§ 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 or unincorporated association shall be deemed a resident of any district 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 district in the 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 district in the 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 district in 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.

§ 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.

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 county 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 county to bring in certain additional parties.

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 district 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.

(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 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.

§ 402. Summons; time to appear and answer.

(a) If the summons is personally served within the county on a natural person pursuant to CPLR § 308(1), or on a corporation pursuant to CPLR § 311(1), it shall require the defendant to appear and answer within twenty days after its service.

(b) If the summons is served otherwise than as designated in subdivision (a), 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 county unless service beyond the county 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 county, 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 county, if, in person or through an agent, he:

1. transacts any business within a district of the court in the county; or

2. commits a tortious act within a district of the court in the county, 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 a district of the court in the county.

(b) Service of summons. Service of summons under this section may be made in such manner and at such place, regardless of county 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 county 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 county for purposes of this section.

§ 405. Summons; service without the county permissible but not giving personal jurisdiction in certain actions.

Service may be made without the county 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 an action involving real property as defined in § 203 of this act; or

(b) in an action to foreclose a lien on, or to recover, a chattel seized within a district of the court in the county; or

(c) where a levy upon property of the person to be served has been made within a district of the court in the county 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 county lines, as would confer jurisdiction on the supreme court in a like case.

§ 408. Summons; service outside county to bring in certain additional parties.

A summons may be served in such manner and at such place, regardless of county or state lines, as would confer jurisdiction on 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); and

(e) a person whom the court has ordered joined as a party pursuant to CPLR § 1001.

§ 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 district in which the action is brought.

(b) Proof of service shall be made by the certificate of the enforcement officer or by the affidavit of the person by whom the service was made, and such certificate or affidavit shall be indorsed upon or annexed to the summons.

§ 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, petition with a 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, such entitlement to interest shall not 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 payment of interest.

ARTICLE 7 MANDATES

Section 701. Direction and execution of mandates.

§ 701. Direction and execution of mandates.

(a) In an action or proceeding brought in the court, all civil processes and mandates, except as otherwise provided in this act, may be served or executed only within the county. They shall be executed by the court's enforcement officer. Where this act empowers the court's process or mandate to be served or executed without the county, it may 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 to

this court's enforcement officers.

(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 district out of which the process or mandate issued, or the clerk of this court in such district, as the case may be; except that where this court has issued its transcript the sheriff shall return executions to the county clerk with whom such transcript is filed.

(d) 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.

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 county, against persons or property within the county.

(b) When a return is required, the return shall be made to the clerk of this court in the district 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 and the summons is served within the county, 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 the plaintiff 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, which ever 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 insofar 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).

(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 county 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 county, 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 county or in a county adjoining the county in which the action is pending or within the city of New York if the action is pending 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 county 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.

1304. Time for rendering judgment or decision.

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 fifteen nor more than thirty 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 fifteen nor more than thirty 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.

§ 1304. Time for rendering judgment or decision.

If a jury trial is not demanded or directed as provided in § 1303, the court must render judgment within thirty days from the time when the case is submitted for that purpose, except when further time is given by the consent of the parties. If no decision is rendered within the time thus limited, the case shall be placed upon such calendar as may be provided by rule.

§ 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 local 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 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.

§ 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, provided, with reference to paragraph one of subdivision (a) of said section, that the affidavit specify that the defendant is a resident of a district of this court or, if he is not such a resident, that entry is authorized in this court, designating the district. If such additional requirements are fulfilled, the words "clerk of the county" as used in subdivision (b) of said section shall be deemed a reference to the clerk of this court in the district specified, and the judgment confessed 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. Execution against enforcement officer.

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 district 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. Execution against enforcement officer.

(a) Execution on a judgment against an enforcement officer other than a sheriff 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 to the court's enforcement officer. It must be subscribed by either the clerk of the court in the district 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 county, and for such purpose it is not necessary that the judgment have been docketed with the 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 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 county 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 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.

§ 1701. Appeals; to what court.

Appeals in civil causes shall be taken from the district court to the county court, unless an appellate term of the supreme court has been established by the appellate division of the department and such appellate division 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 judge or justice of the appellate court; or by permission of a judge or 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, 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.

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, 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 of non-attorney representatives.

§ 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 five thousand dollars exclusive of interest and costs, or any action commenced by a party aggrieved by an arbitration award rendered pursuant to part one hundred thirty-seven of the rules of the chief administrator of the courts (22 NYCRR Part 137) in which the amount in dispute does not exceed five thousand dollars, provided that the defendant either resides, or has an office for the transaction of business or a regular employment within a district of the court in the county, or where the 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 such real property is situated within a district of the court in the county.

§ 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 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 a district of the court in the county, and his residence is known to the claimant, or (2) at his office or place of regular employment within such a district if he does not reside therein or his residence within such a district 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 claimant 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 civil practice law and rules 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 of the courts (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, 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, and no assignees 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 judgement 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 record.

§ 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 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.

ARTICLE 18-A

COMMERCIAL CLAIMS

Section 1801-A. Commercial claims defined.

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§ 1801-A. Commercial claims defined.

(a) The term "commercial claim" or "commercial claims" as used in this act 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 district in the county where the court is located.

(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 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 claims.

(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 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 filing system maintained 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 municipality in which the court is located, and his residence is known to the claimant, or at his office or place of regular employment within such municipality if he does not reside within such municipality or his residence within the municipality 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 to 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 municipality in which the court is located, and his residence is known to the claimant, or at his office or place of regular employment within such municipality if he does not reside therein or his residence 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 the 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 fees. The information shall be available in English and, if the chief administrator determines it is appropriate or necessary, in Spanish. Large signs in English and, if the chief administrator requires it, 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 state 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 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 its 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 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.
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; actions by governmental units.
1913. Witnesses' fees.

§ 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 action.

§ 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.

Costs on appeal, and those awarded under § 1102 of this act, may be added to the amount of costs otherwise applicable in the action.

§ 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 enforcement officer, 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 disbursements, the fees paid pursuant to § 1911 (a) (1) of this act. Such costs shall be exclusive in such proceeding and shall constitute the sum to be awarded as costs 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 enforcement officer, 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 or an enforcement officer, including jury fees, and the reasonable expense of serving process where service is made by other than an enforcement officer.

(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.

(a) There shall be paid to the clerk the following sums as court fees in civil matters and there shall be no others:

(1) Upon the issuance of a summons, order of arrest or attachment, requisition or warrant of seizure, or a notice of petition or order to show cause in lieu thereof in a summary proceeding to recover real property, forty-five dollars.

(2) Upon filing the first paper in an action or proceeding, including a special proceeding for the settlement of a claim of an infant or incompetent, forty-five dollars, unless there has been paid a fee of forty-five dollars for the issuance of a summons, order of arrest or attachment, requisition or warrant of seizure, or a notice of petition or order to show cause in lieu thereof in a summary proceeding, as provided for by paragraph one of this subdivision.

(2-a) 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.

(3) For entry of judgment upon confession, forty-five dollars, unless there has been paid a fee of forty-five dollars in accordance with the provisions of subparagraphs (1) and (2) hereof.

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

(5) For issuing a satisfaction of judgment, or a certificate regarding the judgment, six dollars.

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

(7) For exemplification of a copy of a paper on file in the clerk's office fifteen dollars.

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

(9) For filing a notice of trial, forty dollars. All fees shall be

prepaid before the service shall be performed.

(10) 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 paragraph two-a of this subdivision.

(b) Fees of enforcement officer. There shall be paid to the enforcement officer by the party requiring his services, the same fees to which a sheriff would be entitled for like services in supreme court.

(c) Stenographer's fees. A stenographer shall be entitled to the fees prescribed by the civil practice law and rules.

(d) Nothing in this section shall bar collection of a reasonable administrative fee, as authorized by paragraph (j) of subdivision two of section two hundred twelve of the judiciary law, where payment of a fee hereunder is by means of a credit card or similar device.

§ 1912. Actions in which no fees to be charged; employees; actions by governmental units.

(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 county; 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) Actions by governmental units. In an action brought in the name of the people of the state of New York by the attorney general or the district attorney of the county, or in the name of the county or of any department, board or officer thereof, by the county attorney of the county, or in the name of any special district by the commissioners

thereof, or in the name of any village by the village counsel, or in the name of any school district by the board of education or trustees thereof, for the recovery of a penalty, or in the name of a town by the town attorney, or in the name of the trustees of a town by the trustees for the recovery of a penalty, the recovery of money damages, or the enforcement of a local law, ordinance or regulation, 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.

ARTICLE 20

CRIMINAL JURISDICTION AND PROCEDURE

Section 2001. Criminal jurisdiction; procedure.

2002. Arraignment by mail.

2005. Further powers of judges; process and mandates.

2009. Venue.

2012. Drawing of jurors.

2013. Jury trial; submission to jury.

2014. Jurors' fees.

2015. Correction of technical errors.

2019. Records.

2020. Disposition of fines and penalties.

2021. Transfer of justices' criminal dockets to district court.

§ 2001. Criminal jurisdiction; procedure.

(1) The court shall have such jurisdiction of criminal matters as is

prescribed by the criminal procedure law.

(2) Unless otherwise specifically prescribed, the practice and procedure in the court shall be governed by the criminal procedure law.

§ 2002. Arraignment by mail.

Notwithstanding any provision of the criminal procedure law, in any criminal proceeding in which the district court has jurisdiction, and where the defendant is not charged with a felony, the court may in its discretion permit a defendant to file an appearance by mail instead of appearing in person or by counsel. In any such case the court shall inform him of the charge or charges against him, furnish him with a copy of the accusatory instrument and inform him of his rights pursuant to section 170.10 of the criminal procedure law. Such proceeding shall thereafter continue in the manner otherwise provided by law.

§ 2005. Further powers of judges; process and mandates.

The judges of the court shall have the power and jurisdiction to send processes and other mandates in any matter of which they have jurisdiction into any county of the state, for service or execution, as provided by the criminal procedure law; and particularly to compel the attendance of witnesses, to order the conditional examination of witnesses, to issue commissions for the examination of witnesses without the state, to inquire into the sanity of a defendant and to dismiss the prosecution of an action conformably to the provisions of the criminal procedure law, and to punish for criminal contempt a person guilty thereof in the manner and subject to the limitations prescribed for courts of record by the judiciary law. Notwithstanding the provisions of subdivision two of section 130.40 of the criminal procedure law, a summons returnable in a district court alleging a violation of any state, municipal or local law, regulation, ordinance or rule governing the ownership or conditions of real property or any building, structure, improvement, or conditions thereon located within the jurisdiction of the court may be served anywhere in the state.

§ 2009. Venue.

Charges of misdemeanor may be tried at any place within the territorial jurisdiction of the court. All other charges shall be tried in the judicial district of the court in which the offense is alleged to have been committed. An accused person need not be arraigned or tried before the judge signing or issuing the summons or warrant, but may be arraigned or tried before any judge of the court; provided, however, that whenever trial has been commenced, it shall be continued and concluded by and before the same judge before whom it was commenced, except as hereinbefore provided.

§ 2012. Drawing of jurors.

Jurors may be drawn and summoned in the manner provided by rules of the appellate division of the department in which the court is located. Jurors drawn for civil actions pursuant to this act may also be used in the trial of criminal cases.

§ 2013. Jury trial; submission to jury.

Whenever a case is submitted to the jury, the jury shall be placed in charge of any peace officer, acting pursuant to his special duties, or police officer designated by the court.

§ 2014. Jurors' fees.

A juror attending as such shall be entitled to the same fee for each day such juror served or attended and the same mileage as jurors in the supreme court of the county. No fee shall be paid to a juror who has been excused from service as a juror, for the day or days so excused.

§ 2015. Correction of technical errors.

Technical errors in the commitment of any accused person may be corrected by the judge at any time after the commitment is signed. The judge may alter or modify a sentence or correct any technical error in the record not affecting the substantial rights of the defendant at any time before the execution of the sentence has been commenced.

§ 2019. Records.

All judges of the court shall keep or cause to be kept legible and suitable records and dockets of all criminal actions and proceedings separate and apart from the records and dockets of civil actions and proceedings kept by them or by clerks of their respective courts.

§ 2020. Disposition of fines and penalties.

All fines and penalties collected by the court shall be paid over to the persons or agencies entitled to the same pursuant to law.

§ 2021. Transfer of justices' criminal dockets to district court.

In any county or part of a county when the district court system has been duly adopted, all criminal dockets of the town justices then on file or required to be filed in the office of the town clerk shall be transferred to the office of the clerk of the district court and there kept and maintained in the same manner as other official records of the district 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. Jurisdiction, venue or procedure not affected or impaired; certain cases.

§ 2101. Definitions.

The following words used in this act shall have the meaning defined in this section, unless otherwise apparent from the context:

(a) "Administrative board" means the administrative board of the judicial conference of the state.

(b) "Administrative judge" means the officer designated by the appellate division of the department in which the court is located.

(c) "Appellate division" means the appellate division of the supreme court in and for the department in which the court is located, or its designated administrative judge.

(d) "Clerk" means the chief clerk or any other clerk or non-judicial person, regardless of title, employed by the court and designated to perform the function referred to in the particular section.

(e) "County" means the county in which the court is located.

(f) "County executive" means the officer, regardless of title, holding the highest executive position in the county.

(g) "Court" means the district court in the county or one of the judges thereof, unless the context clearly indicates reference to some other court.

(h) "District" means a district of the court within the county, whether the court is established for the entire county or only a part thereof, and whether or not the districts of the court within the county are contiguous.

(i) "Enforcement officer" means such officer or officers, whether sheriffs or marshals or otherwise titled, designated pursuant to law to execute the civil mandates of the court.

(j) "Judge" means any judicial officer of the district court, unless the context clearly indicates reference to some other judge.

(k) "Rules" means the rules adopted pursuant to § 2103 of this act.

(1) "Supervisors" means the board of supervisors or other elective governing body of the county.

§ 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 division may adopt, amend and rescind rules for the district court not inconsistent with this act, with the CPLR or with the standards and policies adopted by the administrative board. A copy of the rules shall be available at all times in the office of the clerk of the court in each district, and shall be published as directed by the administrative board or, absent the board's direction, by the appellate division. Three copies of the rules shall be filed with the administrative board.

§ 2103-a. Use of electronic filing authorized.

(a) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in civil cases in a district court as provided in article twenty-one-A of the civil practice law and rules, and in criminal cases as provided in section 10.40 of the criminal procedure law.

(b) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 2104. Jurisdiction, venue or procedure not affected or impaired; certain cases. Notwithstanding the provisions of any general or special law, law and rules, regulation or charter or of this act to the contrary, in the county of Suffolk in those cases of districts having one district court part, the jurisdiction of a court, the venue or procedure otherwise provided by law therefor shall not be affected, altered, increased, diminished or impaired by the location of the place for the office of the clerk or the place for the holding of the court outside of the territorial boundary line of such district provided such location is within fifteen hundred feet of such boundary line.

ARTICLE 23

APPLICATION

Section 2300. Application of this act; effective date.

§ 2300. Application of this act; effective date.

(a) This act shall become law immediately, and all references hereafter to the "uniform district court act" or to the "UDCA" in any law of the state shall be deemed a reference to this act.

(b) This act shall not become operative in Nassau county, or in such parts of Suffolk county as have already been provided by law with a district court, until a law of the state shall so provide; and this act shall not become operative in any other county or portion thereof, or in such parts of Suffolk county as have not already been provided by law with a district court, until a law of the state shall so provide and such law be approved at a general election by the requisite majority of the electors as set forth in section sixteen of article six of the constitution.

(c) The following, with regard to each county or portion thereof, shall be as provided in the law referred to in subdivision (b) or as elsewhere provided by law:

1. The portion of the county in which there shall be a district court.
2. The districts within such county which shall comprise the court

therein.

3. The compensation of judges of the court.

4. All matters regarding expenses of the court, and the governmental unit or units to be charged therewith.

5. The officers who shall be the enforcement officers of the court, their titles and their territorial jurisdiction.

*(Sections 2401 through 2422 from chapter 879 of 1936 as amended are supplemental sections - not part of UDCA)

* § 2401. District court; establishment. There shall be in the county a district court, which shall be governed by the uniform district court act.

* NB There are 2 § 2401's

*** § 2402. Justices of the peace abolished; powers and jurisdiction of police justices transferred.** All the powers, duties and jurisdiction of the justices of the peace in the several towns of the county are hereby transferred to the district court of the county and the judges thereof, and the office of justice of the peace in the several towns of the county is abolished. All the powers, duties and jurisdiction of police justices of villages in the county, except as hereinafter provided, are hereby also transferred to the district court of the county and the judges thereof. The police justices of villages in the county shall have jurisdiction of violations of the ordinances and other regulations of the village and of violations of the vehicle and traffic law committed within the limits of the village, except in cases in which the charge is operating a motor vehicle or motor cycle while in an intoxicated condition.

* NB There are 2 § 2402's

§ 2405. Districts and number of judges therein. The county shall be

divided into judicial districts as follows: The county as a whole shall constitute the first judicial district in which one district court judge shall be elected. The town of Hempstead shall be the second judicial district, the town of North Hempstead the third judicial district and the town of Oyster Bay the fourth judicial district. There shall be fourteen district court judges elected in the second district, five in the third district and six in the fourth district. For the purpose of electing such judges and for the purpose of determining the boundaries of such districts, any city heretofore or hereafter created from the territory of any town shall be considered to be part of that town.

The compensation of the judges of the district court authorized on the effective date of this act shall be the same as the existing judges of the district court.

§ 2406. Board of judges. 1. The judges of said court shall constitute the board of judges of the court. The judge elected from the first district shall be the president. The meetings of the board shall be public, except when such board shall be in executive session, and so far as is practicable shall be held at regular intervals, and all its proceedings shall be recorded by its secretary and shall be preserved. A majority of the members of the board shall constitute a quorum.

2. The president of the board of judges shall preside and shall be entitled to vote at all meetings of the board.

3. The board of judges shall designate a clerk of the court to act as secretary of the board and from time to time substitute another. Such secretary shall serve without additional compensation. All necessary disbursements of the board of judges and the secretary thereof shall be a county charge and paid as other county charges.

*** § 2408. Procedure for traffic violations.** 1. The board of judges shall have power to provide, by resolution, a procedure to govern the payment of fines by any person accused of violating any provision of any

law, ordinance, rule or regulation relating to vehicular or pedestrian traffic, without appearing in person, except in cases of speeding, reckless driving, leaving scene of an accident or any charge of a misdemeanor or felony or any charge which may for reasons of public policy require the personal appearance of the accused, for such period of time as shall be deemed in the public interest; to fix the fine to be paid in each class of case within the minimum and maximum amount set by law, ordinance, rule or regulation; to designate the place or places where such fines may be paid; to prescribe the form of the summonses to be used and the manner in which the plea of guilty shall be made; and the manner in which the money shall be paid.

2. Such procedure may provide that any person pleading "guilty", or that a person pleading "not guilty" and asking that a day be set for trial, may do so through a representative or by mail and may further provide that the clerk of the court set such day for trial.

3. No resolution providing such procedure shall be effective until a certified copy thereof shall have been filed with the county clerk, whereupon, or upon such subsequent date prescribed in said resolution, any traffic violations bureau heretofore established by the board of judges pursuant to the general municipal law shall be deemed abolished and the powers of such bureau shall devolve upon the board of judges and matters pending in such traffic violations bureau shall be disposed of in accordance with the procedure provided pursuant to this section.

4. Whenever any summons is issued involving any provision of any law, ordinance, rule or regulation relating to motor vehicle parking and the procedure for such violation is provided under this section, the member of the police force or any other peace officer serving said summons in lieu of inserting in the summons the name of the person summoned, may insert therein, in the space provided for the insertion of the name of the person summoned, the words "Registered owner of motor vehicle bearing license, " said words to be followed by the license designation or identification as shown by the license plates on said motor vehicle parked in violation of law, ordinance, rule or regulation as aforesaid, and said summons may be served upon said registered owner by a member of

the police force or other peace officer by affixing the summons to said motor vehicle in some conspicuous place where it is likely to be seen by an operator thereof. An operator of the motor vehicle, for the purposes of this section if not the owner thereof, shall be deemed to be the agent of such registered owner to receive said summons served in the manner aforesaid, and service made in the manner provided shall be deemed to be lawful service upon the registered owner of the motor vehicle to which the summons is affixed. For the purpose of the service of the summons as herein provided, the registration records of the motor vehicle department of the state in which the motor vehicle is registered shall be conclusive evidence as to the registered owner of the motor vehicle. When a summons is issued and served as authorized in this section, the information sworn to may charge the violation in the same manner and any further proceedings authorized in this section may be had and recorded in the name of the "Registered owner of motor vehicle bearing license", said words to be followed by the license designation or identification as shown by the license plates.

* NB There are 2 § 2408's

§ 2408-a. Disposition of fines and penalties. All fines and penalties imposed and collected by any judge of a court of special sessions or magistrate's court shall be paid over to the county treasurer and be credited by him to the general county fund, except as follows:

1. Fines and penalties collected in cases arising out of the violation of the ordinances or regulations of any town, city or village shall be paid at least monthly into the treasury of such town, city or village.

2. Fines and penalties which by any general state law are payable to the state of New York or to any department, commission or agency thereof shall be paid as in such general state law provided at least monthly.

3. Fines and penalties collected for violation of the conservation law and of laws and ordinances in relation to the use of the public highways by motor vehicles, trailers, and motorcycles shall be disposed of as now or hereafter required by law except as provided in subdivision four of

this section and except further that fines and penalties collected in cases arising out of the violation of the regulations of the Long Island state park commission the commissioner of parks and recreation relating to traffic, shall be paid over to the county treasurer and credited to the general fund for the use of such county.

4. Fines and penalties, which by general state laws, but for this section, would be required to be paid to a town or any officer of a town, shall be paid instead to the county treasurer and credited to the general fund for the use of such county.

§ 2409. County to provide place of holding court. It shall be the duty of the county to provide suitable places for holding court.

*** § 2412. Expenses of court, how paid.** It shall be the duty of the county to supply and pay for whatever may be necessary for the transaction of the business of said court and the judges thereof, and to supply all proper accommodations, books, stationery and furniture and to pay all authorized salaries, compensations and expenses and disbursements; and the proper authorities shall annually include in the budget such sums as may be necessary to pay the same.

* NB There are 2 § 2412's

§ 2415. Court clerks, marshals, and other employees; appointment; compensation. The board of judges shall appoint, subject to the approval of the appellate division of the supreme court for the second judicial department, such court clerks, deputy court clerks, marshals, deputy marshals, stenographers and other assistants and employees as may be provided by ordinance. Court clerks, marshals, deputy court clerks and deputy marshals shall at the time of their appointment be residents of the county and removal of any of them from the county shall vacate the office or position of employment. All the officers and employees provided by this section shall receive compensation to be fixed by ordinance, which salaries together with other expenses of their offices

or employments as provided by the annual budget shall be a county charge.

§ 2416. Court clerk; duty to account for fees. The court clerk in each district shall collect and receive all the fees, and account for and pay the same into the county treasury at such times as the county treasurer may prescribe, which account shall contain the title of each case and the amount of fees received therein; and the salary of such clerk shall not be paid until he shall have so accounted and paid. He shall perform no service until he shall have received the legal fees therefore.

§ 2417. Bond of marshal. 1. 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 a fidelity or surety company duly authorized by law to act as surety or with two sufficient sureties, who shall be residents of the county and each of whom shall be the owner of real estate therein of the value of double the penalty of the bond, which shall be in such sum as the board of supervisors shall prescribe but not less than three thousand dollars. The bond shall provide that the marshal and the surety or sureties shall jointly and severally answer to the county 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 in the district in which the marshal was appointed; and such judge shall have power to require that the surety or 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 county clerk of the county.

2. 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.

§ 2418. 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.

§ 2419. Filing of transcript of judgment with county clerk; reducing bond. Upon filing with the county clerk of a transcript of a judgment on the bond of a marshal, the county clerk shall make a memorandum on the bond of the time when and the court whereby 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.

§ 2420. 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 county clerk the affidavit of the plaintiff or his attorney in such action, acknowledging the payment; whereupon said clerk shall endorse the payment on the bond and the bond shall be reduced by the amount so paid.

§ 2421. Appellate division to compel renewal of marshal's bond. 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 county clerk shall report the fact to the appellate division. If any bond is cancelled or the amount of such 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 such 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 office shall be vacated.

§ 2422. Powers, duties and liabilities of marshals and deputy marshals. 1. The marshals shall be the enforcement officers of the court. The authority of a marshal extends throughout the county 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 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 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 and employees of the court, or other persons, agencies or officials, as may be designated by the appellate division.

2. A marshal shall be entitled to such fees as may be provided by the uniform district court act. All fees paid on account of services performed by him shall be the property of the county and shall be paid to the court clerk daily and by him paid to the county treasurer as hereinbefore provided in the case of all other county officers.

3. A marshal of the district court shall be a peace officer. All monies other than marshal's fees received by the marshal or by the sheriff in relation to the business of said courts which the county is entitled to receive shall be paid to the county treasurer and a report thereof shall be filed with the clerk of said courts.

4. A marshal of the district court shall serve all criminal process issued out of the court whenever directed by statute, rule or order so to do and whenever he is requested so to do by a judge of the court, and he shall perform such other duties as any judge of the court may require. The marshal shall receive no fees or compensation for the

service of any criminal process issued out of the court.

5. A deputy marshal of the district court shall have all the powers of a marshal and be subject to all the duties and liabilities of a marshal and shall give a bond in the same manner as a marshal before entering upon the duties of this office and all the provisions of this act and of the uniform district court act relating to marshals, their powers, duties and liabilities, shall be deemed to apply with the same force and effect to deputy marshals.

* (Article XXIV, Sections 2401 through 2414, from chapter 278 of 1958 as amended is supplemental - not part of UDCA)

ARTICLE XXIV

DISTRICT COURT: ORGANIZATION

TITLE 1. ORGANIZATION

* **§ 2401. District court establishment.** There shall be a district court system established in the area or areas of the county of Suffolk as herein provided. The Suffolk county district court shall be an inferior court and the judges thereof shall have the civil and criminal jurisdiction prescribed hereinafter. Such court shall not be a court of record.

* NB There are 2 § 2401's

* **§ 2402. District court system; area and composition.** The district court system of Suffolk county shall be established on the first day of January next succeeding one year from the general election at which at least three contiguous towns, by a majority vote cast in each such town, elect to participate in and become a part of such county district court system. The election of any such town shall be irrevocable. The town of Shelter Island shall be deemed to be contiguous to the towns of Southold, Southampton and East Hampton. Once the district court system

of Suffolk county has been created, any town contiguous to such district may thereafter elect at a general election to become part of the district court system, which referendum shall be initiated by town board resolution, and upon making such election by the majority vote of the electors of such town, such town shall become irrevocably a part of the county district court system on the first day of January of the second year following such election.

* NB There are 2 § 2402's

§ 2403. Districts and number of judges therein. The county district court system shall be divided into judicial districts as follows: The entire district court system shall constitute the first judicial district in which one district court judge shall be elected. Each town electing to become part of the district court system, including the three or more towns establishing the system, shall constitute another judicial district, provided, however, that any two or more contiguous towns electing to become part of the district court system which have a combined total population of less than sixty thousand according to the last census, shall constitute one judicial district, but provided further, that if any of such towns shall thereafter attain a population greater than thirty thousand, such town shall constitute another judicial district. In each judicial district there shall be elected one district court judge. The supervisors elected in the towns comprising the first judicial district may, upon the recommendation of the board of judges of the district courts, increase the number of judges in all or any one of the districts provided that such new judicial post or posts shall be filled for a full term at the next general election held not less than three months after the creation thereof. For the purpose of electing such judges and for the purpose of determining the boundaries of such districts, any city hereafter created from the territory of any town shall be considered to be part of that town.

§ 2404. Qualifications and duties of judges; oaths of office. 1. No one shall be eligible to the office of judge of the district court unless he be a resident elector in the district for which he shall be

elected or appointed, and shall have been admitted to practice law in this state at least five years.

2. No judge shall engage in the practice of the law or hold any other public office in the county. Each judge shall devote his whole time and capacity to the duties of his office. Before entering upon his duties each judge elected or appointed pursuant to this act shall take and file with the county clerk the oath of office prescribed by the constitution. The judges may, by virtue of their offices, administer oaths, take depositions and acknowledgments within the county and certify the same in the same manner and with like effect as judges of courts of record.

§ 2407. Board of judges. 1. The judges of said court shall constitute the board of judges of the county. The judge elected from the first district shall be the president. The meetings of the board shall be public, except when such board shall be in executive session, and so far as is practicable shall be held at regular intervals, and all its proceedings shall be recorded by its secretary and shall be preserved. A majority of the members of the board shall constitute a quorum. The board may by resolution provide for the conduct of its meetings, the keeping and preservation of its minutes and the public inspection thereof at reasonable times; for the order of judicial business, the manner of its discharge and the maintenance of order in and about the courts; for the establishment of parts of the court and for the assignment of judges to hold the several parts so established.

2. The board of judges shall designate the number and general location of the places, one or more for each judge, in which court shall be held in each district. The president of the board of judges shall preside and shall be entitled to vote at all meetings of the board. In addition to all the powers of a member of the board he shall exercise general supervision of the business of the court and have such other powers as may be conferred by resolution of the board. He shall whenever he deems it necessary for the prompt disposition of business, assign any judge temporarily to hold court in any district in the county, other than that in which he had been assigned by the board, and he may transfer cases

for trial or for all purposes from one district to another. The acts or directions of the president of the board of judges may be vacated, amended or modified by a two-thirds vote of the members at a regular or special meeting of the board.

3. The board of judges shall designate a clerk of the court to act as secretary of the board and from time to time substitute another. Such secretary shall serve without additional compensation. All necessary disbursements of the board of judges and the secretary thereof shall be a charge against the first judicial district and paid as other district charges.

*** § 2408. Access to court houses; expenses of court how paid.** The judges of the court shall have access to and possession of the court-rooms and court offices and other places provided by the first judicial district for the transaction of the business of the district court. It shall be an obligation of the first judicial district to supply and pay for whatever may be necessary for the transaction of the business of said court and the judges thereof, and to supply all proper accommodations, books, stationery and furniture and to pay all salaries, compensations and expenses and disbursements herein authorized; and the proper county authorities shall annually include in the county budget chargeable only to the first judicial district such sums as may be necessary to pay the same. Only the members of the county board of supervisors from the towns comprising the first judicial district shall be eligible to vote upon the district court budget. All fees and other revenue of the district court system shall be credited to the first judicial district.

* NB There are 2 § 2408's

§ 2410. Time and place of holding court. It shall be the duty of the first judicial district to provide suitable places for holding court in accordance with the designation made by the board of judges as hereinbefore provided. The judges assigned by the board shall hold court in one or more parts in each district as established, and on such days

as fixed by said board and at places provided by the first judicial district or, in the event of failure to provide such places, at any places designated by the board of judges. If there is only one part of the court in a district, the office of the clerk of such district and the place for holding the court thereof may be located outside of the district provided it is within fifteen hundred feet of the district boundary line. Civil, small claims and criminal matters filed, made returnable, processed or tried in such clerk's office or places for holding court designated by the board of judges and located outside of a district as herein provided, shall be deemed for purposes of this charter to have been filed, made returnable, processed or tried in the district for which such office or courthouse was provided. During the months of July and August at least one part of the court in each district shall be in session at least three days in each week to hear civil and criminal cases, and shall try summary proceedings, actions for wages and, on good cause shown, other actions where the rights of the parties may be jeopardized by delay, and such other actions as the court may deem proper to be tried; and except for illness each judge shall be available for service as assigned by the board of judges during eleven months of the year. The president of the board of judges shall assign any judge or judges of the district court to perform without additional compensation the duties of acting police justice in any village within the first judicial district upon the request of the board of trustees thereof.

§ 2411. Procedure for traffic violations. 1. The board of judges shall have power to provide, by resolution, a procedure to govern the payment of fines by any person accused of violating any provision of any law, ordinance, rule or regulation relating to vehicular or pedestrian traffic, without appearing in person, except in cases of speeding, reckless driving, leaving scene of an accident or any charge of a misdemeanor or felony or any charge which may for reasons of public policy require the personal appearance of the accused, for such period of time as shall be deemed in the public interest; to fix the fine to be paid in each class of case within the minimum and maximum amount set by law, ordinance, rule or regulation; to designate the place or places

where such fines may be paid; to prescribe the form of the summonses to be used and the manner in which the plea of guilty shall be made; and the manner in which the money shall be paid.

2. Such procedure may provide that any person pleading "guilty", or that a person pleading "not guilty" and asking that a day be set for trial, may do so through a representative or by mail and may further provide that the clerk of the court set such day for trial.

3. No resolution providing such procedure shall be effective until a certified copy thereof shall have been filed with the county clerk.

4. Whenever any summons is issued involving any provision of any law, ordinance, rule or regulation relating to motor vehicle parking and the procedure for such violation is provided under this section, the member of the police force or the peace officer, acting pursuant to his special duties, serving said summons in lieu of inserting in the summons the name of the person summoned, may insert therein, in the space provided for the insertion of the name of the person summoned, the words "Registered owner of motor vehicle bearing license", said words to be followed by the license designation or identification as shown by the license plates on said motor vehicle parked in violation of law, ordinance, rule or regulation as aforesaid, and said summons may be served upon said registered owner by a member of the police force or by a peace officer, acting pursuant to his special duties, by affixing the summons to said motor vehicle in some conspicuous place where it is likely to be seen by an operator thereof. An operator of the motor vehicle, for the purposes of this section if not the owner thereof, shall be deemed to be the agent of such registered owner to receive said summons served in the manner aforesaid, and service made in the manner provided shall be deemed to be lawful service upon the registered owner of the motor vehicle to which the summons is affixed. For the purpose of the service of the summons as herein provided, the registration records of the motor vehicle department of the state in which the motor vehicle is registered shall be conclusive evidence as to the registered owner of the motor vehicle. When a summons is issued and served as authorized in this section, the information sworn to may charge the violation in the

same manner and any further proceedings authorized in this section may be had and recorded in the name of the "Registered owner of motor vehicle bearing license", said words to be followed by the license designation or identification as shown by the license plates.

* **§ 2412. Seals.** The court in each district shall have an official seal on which shall be engraved the arms of the state of New York, the name of the court, the county and the district. Seals shall be furnished at the expense of the first judicial district.

* NB There are 2 § 2412's

§ 2413. Court clerks; appointment, compensation and removal. The board of judges shall appoint one court clerk for each judicial district and, subject to the applicable civil service laws, such additional court clerks, deputy court clerks, stenographers and other assistants and employees in the clerk's office as may be necessary. Court clerks and deputy court clerks shall at the time of their appointment be residents of the districts for which they are appointed and removal of any of them from the district for which he was appointed shall vacate the office. All the officers and employees provided by this section shall receive compensation to be fixed by the members of the board of supervisors from the towns comprising the first judicial district, which salaries together with other expenses of their offices as provided by the annual budget shall be a charge against the first judicial district. Any court clerk or deputy court clerk may be removed by the board of judges for cause, provided that written charges are first filed with the board of judges, and that such court clerk or deputy court clerk be given due notice thereof and be afforded an opportunity to be heard; and the president of the board of judges may, in his discretion, suspend such court clerk or deputy court clerk from the performance of his official duties pending a hearing upon the charges. Upon charges being preferred against a court clerk or deputy court clerk by a judge of the district court, the board of judges shall forthwith cause notice of suspension of such court clerk or deputy court clerk to be served upon him, and such court clerk or deputy court clerk shall thereupon remain suspended until

the hearing and determination of the charges.

§ 2414. Court clerks; duties. The court clerk in each district shall:

1. Exercise the powers conferred and perform the duties imposed upon him by this act and the rules and the resolutions of the board of judges, and those usually appertaining to his offices; and, in the exercise of such powers and the performance of such duties, conform to the direction of the court.

2. Keep the seal of the court and affix it to such papers and documents as he may be required to certify.

3. Keep a docket book in such manner as the rules may prescribe, and all other records and proceedings of the court, and act as custodian of all documents, books and records.

4. Keep the office open for the transaction of business during the hours designated by the rules and resolutions of the board of judges.

5. Attend the sittings of the court, administer oaths and take acknowledgments in the same manner and with like effect as clerks in courts of records, receive verdicts of juries, and, in a proper case, adjourn causes, or, when no judge appears, adjourn causes to the next judicial day; deputy court clerks and clerks other than the court clerk shall have like power and authority by designation of the president of the board of judges.

6. Assume charge and control of, and be responsible for, the general conduct of the business of his office and for the faithful discharge of the duties of deputy and assistant clerks and other officers connected with the court.

7. Collect and receive all the fees, and account for and pay the same into the county treasury at such times as the county treasurer may prescribe, which account shall contain the title of each case and the

amount of fees received therein; and the salary of such clerk shall not be paid until he shall have so accounted and paid. He shall perform no service until he shall have received the legal fees therefor.

8. Deliver to his successor in office the official seal and all papers, books and records on file in his office.

*** Article XXV from chapter 570 of 1963, as amended, is supplemental - not part of UDCA**

**ARTICLE XXV
CIVIL AND CRIMINAL JURISDICTION AND PROCEDURE**

**TITLE 1
JURISDICTION, PRACTICE AND PROCEDURE**

§ 2501. Application of uniform district court act. The civil and criminal jurisdiction of and practice and procedure in the district court of Suffolk county shall be as set forth in the uniform district court act.

§ 2502. Enforcement officer. The sheriff of Suffolk county is hereby designated the enforcement officer for the district court of Suffolk county as defined in the uniform district court act. The territorial jurisdiction of the sheriff of Suffolk county as enforcement officer under the uniform district court act shall be throughout the county of Suffolk.

§ 2503. Disposition of fines and penalties. All fines and penalties imposed and collected by any judge of the court sitting as a court of special sessions or as a magistrate's court shall be paid over to the county treasurer and be credited by him to the first judicial district, except as follows:

1. Fines and penalties collected in cases arising out of the violation of the ordinances or regulations of any town or village shall be paid at least monthly into the treasury of such town or village.

2. Fines and penalties which by any general state law are payable to the state of New York or to any department, commission or agency thereof shall be paid as in such general state law provided at least monthly.

3. Fines and penalties collected for violation of the conservation law and of laws and ordinances in relation to the use of the public highways by motor vehicles, trailers and motorcycles shall be disposed of as now or hereafter required by law except as provided in subdivision four of this section and except further that fines and penalties collected in cases arising out of the violation of the regulations of the Long Island state park commission and the state commissioner of parks and recreation relating to traffic, shall be paid over to the county treasurer and credited to the first judicial district.

4. Fines and penalties, which by general state laws, but for this section, would be required to be paid to a town or any officer of a town, shall be paid instead to the county treasurer and credited to the first judicial district.

*** Article XXVI from chapter 811 of 1962, as amended, is supplemental - not part of UDCA**

ARTICLE XXVI GENERAL PROVISIONS

TITLE 1. IN GENERAL

§ 2601. Death or removal of judge not to affect proceedings. No process, action, judgment, execution or proceeding shall abate or be discontinued by reason of the death, removal from office or vacancy in

office of any judge, but another judge shall proceed to hear, try, determine and give judgment in and upon the same, and upon all matters and things pending and undecided or not acted upon.

§ 2602. Presumption of regularity. The presumption of regularity shall attach to the proceedings, judgments, orders and final orders of this court, and every fair intendment shall be made in favor of its jurisdiction.

§ 2603. Vote on creation of the district court system. At the general election to be held in nineteen hundred sixty-two there shall be submitted to all the electors of the various towns of Suffolk county, including the electors within incorporated villages, the following two propositions, provided not less than one hundred twenty days before such election the town board of such town adopts a resolution authorizing such submission and a copy thereof, duly certified by the clerk of such board, shall have been filed with the board of elections of the county and resolutions are filed by at least three contiguous towns and each town submitting such resolution is contiguous to another town submitting the same:

1. "Shall the town of become a part of the Suffolk County District Court System?"

2. "If the town of ... becomes a part of the Suffolk County District Court System, shall the office of the justice of the peace be abolished within such town?"

In any town which hereafter becomes a part of the Suffolk county district court system wherein the voters approve the proposition to abolish the office of justice of the peace the said office of each of the incumbent justices of the peace shall be deemed abolished at the time when the existing term of each such incumbent justice of the peace expires.

§ 2604. Alternate method of submission. 1. If the county district court system is not created at the general election in nineteen hundred sixty-two, it may be submitted to the electors of the towns for adoption at any subsequent general election provided resolutions authorizing such submission are adopted by the town boards of the necessary contiguous towns as hereinabove provided and certified copies thereof are filed with the board of elections of the county at least one hundred twenty days before such general election.

2. If the county district court system has been created at any general election as hereinabove provided, a proposition may be submitted to the electors of any town contiguous thereto for inclusion in the system at any subsequent general election provided a resolution authorizing such submission is adopted by the town board as hereinabove provided and a certified copy thereof is filed with the board of elections of the county at least one hundred twenty days before such general election.

§ 2611. Pending actions and proceedings. (a) No action or proceeding, civil or criminal, pending at the time when this act shall take effect, shall be affected or abated by the passage of this act or by anything herein contained. All actions or proceedings, civil or criminal, pending in the courts of special sessions of the towns of Babylon, Huntington, Islip, Smithtown and Brookhaven or pending before justices of the peace in the said towns on December thirty-first, nineteen hundred sixty-five, the date such courts are to be abolished, are hereby transferred to the district court of Suffolk county.

(b) For the purpose of the disposition of such actions and proceedings only, the jurisdiction of the district court of Suffolk county shall be deemed:

(1) expanded to that of the abolished court whenever necessary to sustain the jurisdiction of the district court of Suffolk county over such action or proceeding if the abolished court has jurisdiction of the same; and

(2) contracted to that of the abolished court so as to prevent the district court of Suffolk county from giving relief of such nature or in

such amount as could not be given by the abolished court.

(c) Except as provided for in the foregoing, practice and procedure in such actions and proceedings shall be as if the same were instituted in the district court of Suffolk county after December thirty-first, nineteen hundred sixty-five. But if the court shall find that a practice or procedure is necessary to the disposition of such action or proceeding, the court may permit recourse to or completion of the same.

(d) All warrants theretofore issued by magistrates of the courts of special sessions of the towns of Babylon, Huntington, Islip, Smithtown and Brookhaven shall after December thirty-first, nineteen hundred sixty-five, be deemed valid warrants of the district court of Suffolk county and be returnable therein.

§ 2612. Construction. The provisions of this chapter relating to the district court and procedure therein shall be liberally construed in furtherance of justice.

§ 2613. Separability. If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.