CIVIL PRACTICE LAW

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INTRODUCTION

This *Survey* provides a bird's eye view of New York civil practice law between July 1, 2024, and June 30, 2025. It summarizes changes to statutes and rules, as well as significant developments in appellate cases. By design, it offers a general and cursory examination.

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Nonetheless, the *Survey's* purpose is to help practicing lawyers stay current with New York civil practice law. It may also serve as a starting point for further research. The *Survey* begins with statutory changes in Part I, moves to changes to court rules in Part II, and ends with a review of appellate cases in Part III.

I. STATUTORY CHANGES

During the *Survey* period, amendments and additions to New York's Civil Practice Law and Rules ("CPLR") spanned day-to-day matters of civil litigation like service of process, venue, waiver of fees, e-filing, and sheriff fees, to the more particular matter of extreme risk protection orders. Other changes during the *Survey* period conformed civil law to earlier amendments of criminal law. Substantive changes are discussed first in the order of CPLR sections, followed by a summary of two conforming amendments.

A. Service of Process

In November 2024, the Legislature amended personal service for civil cases.[1] Previously, when a summons was served on an individual, the proof of service required a description of the recipient's "sex, color of skin, hair color, approximate age, approximate weight and height, and other identifying features."[2] The amendment replaced "sex" with "gender" and "color of skin" with "race."[3] The law now requires a description of the summons's recipient according to "the process server's perception of the person's: gender, race, hair color, approximate age, approximate weight and height, and other identifying features."[4]

B. Venue

In December 2024, the Legislature limited venue for matrimonial cases to the county where one of the parties resides or the county where a minor child of the marriage resides.[5] The law now reads as follows:

1. *See* Act of Nov. 22, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 473, § 2 (codified at N.Y. C.P.L.R. 306(b) (McKinney 2025)).
2. *Id.*
3. *Id.*
4. N.Y. C.P.L.R. 306(b) (McKinney 2025).
5. *See* Act of. Dec. 21, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 638, § 2 (codified at N.Y. C.P.L.R. 515 (McKinney 2025)).

> Notwithstanding anything to the contrary in this article, the place of trial in an action subject to subdivision (a) of this rule shall be in a county in which either party resides or, if there are minor children of the marriage, the place of trial may also be in the county where one of such children resides; except that where any of the addresses of these residences is not a matter of public record, or where any of these addresses is subject to an existing confidentiality order pursuant to section 254 of the domestic relations law or section 154-b of the family court act, the place of trial designated by the plaintiff in any action specified in subdivision (a) of this rule may be as specified in section 509 of this article.[6]

Simultaneously, the Legislature amended the general venue provision of CPLR section 509 to align with the new matrimonial law.[7] Plaintiffs continue to select venue subject to the new limitations for venue in matrimonial cases.[8]

C. Waiver of Costs, Fees, and Expenses

The CPLR allows a party to request waiver of costs, fees, and expenses stemming from a civil action or appeal.[9] Previously, these laws referred to "poor persons," but in December 2024, the Legislature replaced the phrase with a "party with insufficient means."[10] The amendment eliminated "outdated" and "pejorative" words.[11] Note that the amendment was part of a larger effort to replace "poor persons" throughout the civil and criminal statutory law.[12]

D. E-Filing

Recent changes to the CPLR encourage e-filing across the State, while preserving exceptions. In December 2024, the Legislature amended the CPLR to create mandatory e-filing programs.[13] Now, the

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6. N.Y. C.P.L.R. 515(b) (McKinney 2025).

7. *See* Act of Dec. 21, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 638 § 1 (codified at. N.Y. C.P.L.R. 509 (McKinney 2025)).

8. *See* N.Y. C.P.L.R. 509 (McKinney 2025).

9. *See* N.Y. C.P.L.R. 1101–1103 (McKinney 2025).

10. Act of Dec. 13, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 589, §§ 1–4 (codified at N.Y. C.P.L.R. 1101–1103 (McKinney 2025)).

11. N.Y. Sponsors Memorandum, N.Y. Assemb., 2024 S.B. 9452 (2024).

12. *See id.*

13. *See* Act of Dec. 13, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 579, §§ 2–4 (codified at N.Y. C.P.L.R. 2111 (McKinney 2025)).

chief administrator of the courts may promulgate e-filing rules for starting a civil action, filing papers, and serving papers.[14] The chief administrator, however, must first consult with county clerks and afford them "the opportunity to submit comments" about the feasibility of e-filing in their jurisdictions.[15] Moreover, the chief administrator must "consult" with legal service providers, assigned counsel, and similar stakeholders within the county and arrange for the submission of public comments from them about e-filing.[16]

In counties where the chief administrator requires e-filing, counsel must be afforded the opportunity to "opt out" if the attorney certifies that they lack "the computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to an electronic format" or "the requisite knowledge in the operation of such computers and/or scanners necessary to participate."[17] On the other hand, if the chief administrator does not mandate e-filing in a county, parties still should be notified of their options to file electronically.[18] They do not need consent from another party to do so.[19]

Importantly, the amendment also creates exceptions for pro se litigants. Even in counties where e-filing is mandated, pro se litigants do not have to use it.[20] Instead, courts should explain the options for e-filing and ask the litigant if they want to use it.[21] The Legislature amended several court rules to implement e-filing across the judiciary, including, for example, in the Court of Claims,[22] New York City courts,[23] family courts,[24] and criminal proceedings.[25]

E. Extreme Risk Protection Orders

In 2019, the Legislature enacted a series of laws to adjudicate an "extreme risk protection order," which stops a respondent from

14. *See* N.Y. C.P.L.R. 2111(a) (McKinney 2025).
15. *Id.*
16. *See* N.Y. C.P.L.R. 2111(b)(2)(B) (McKinney 2025).
17. N.Y. C.P.L.R. 2111(b)(2)(B)(3)(A)–(B) (McKinney 2025).
18. *See* N.Y. C.P.L.R. 2111(b)(2)(A)(i)–(ii) (McKinney 2025).
19. *See* N.Y. C.P.L.R. 2111(b)(2)(A)(i) (McKinney 2025).
20. *See* N.Y. C.P.L.R. 2111(b)(1), 2111(b)(3)(B) (McKinney 2025).
21. *See* N.Y. C.P.L.R. 2111(b)(2)(A)(iv), 2111(b)(3)(B) (McKinney 2025).
22. *See* N.Y. CT. CL. ACT § 11-b (McKinney 2025).
23. *See, e.g.*, N.Y. CITY CRIM. CT. ACT § 42 (McKinney 2025); N.Y. UNIFORM DIST. CT. ACT § 2103-a (McKinney 2025); N.Y. UNIFORM CITY CT. ACT § 2103-a (McKinney 2025); N.Y. UNIFORM JUST. CT. ACT § 2103-a (McKinney 2025).
24. *See* N.Y. FAM. CT. ACT § 214 (McKinney 2025).
25. *See* N.Y. CRIM. PRO. § 10.40 (McKinney 2025).

purchasing or possessing a firearm.[26] The petitioner requesting the order could be a police officer, district attorney, family member, school administrator, physician, nurse, or mental health provider.[27] In October 2024, the Legislature modified the law to include law enforcement agencies, not just the police officers who work for them.[28] Specifically, the petitioner now includes "a law enforcement agency that employs a police officer, as such term is defined in section 1.20 of the criminal procedure law, or a police officer or district attorney with jurisdiction in the county or city where the person against whom the order is sought resides."[29]

Note that the law distinguishes law enforcement agencies, police officers, and district attorneys from other petitioners. Law enforcement agencies and their personnel "shall" file an application for an extreme risk protection order when they have "credible information that an individual is likely to engage in conduct that would result in serious harm to themself or others."[30] Other petitioners "may" file such an application with "supporting documentation, setting forth the facts and circumstances justifying the issuance of an extreme risk protection order."[31]

Moreover, the 2024 amendments added extreme risk protection orders to the state's registry of protective orders and arrest warrants.[32] A court must notify the registry quickly, within one business day:

> The court shall notify the division of state police, any other law enforcement agency with jurisdiction, all applicable licensing officers, the statewide computerized registry of orders of protection and warrants of arrest referred to in section two hundred twenty-one-a of the executive law, and the division of criminal justice services of the issuance of a final extreme risk protection order and provide a copy of such order to such persons

26. Act of Feb. 25, 2019, 2019 McKinney's Sess. Laws of N.Y., ch. 19 (codified at N.Y. C.P.L.R. 6340–6348 (McKinney 2025)).

27. *See* N.Y. C.P.L.R. 6340(2) (McKinney 2025).

28. *See* Act of Oct. 9, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 425, § 1 (codified at N.Y. C.P.L.R. 6340-6341 (McKinney 2024)).

29. N.Y. C.P.L.R. 6340(2) (McKinney 2025).

30. N.Y. C.P.L.R. 6341 (McKinney 2025). The amendment also modernized the statute to state "serious harm to themselves" whereas previously it stated "himself, herself." *See* 2024 McKinney's Sess. Laws of N.Y., ch. 425, § 2.

31. N.Y. C.P.L.R. 6341 (McKinney 2025).

32. *See* Act of Oct. 9, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 427, §§ 1–2 (codified at N.Y. C.P.L.R. 6342–6343 (McKinney 2025)).

> and agencies and registry no later than the next business day after issuing the order.[33]

The ordering court also must "report such demographic data as required by the state division of criminal justice services."[34]

F. Sheriff Fees

Sheriff fees increased in March 2025.[35] Orders of attachment and service of a summons now carry a fee of twenty dollars each.[36] Most of the sheriff fees increased by five or ten dollars.[37]

G. Conforming Amendments

A few more amendments to the CPLR warrant mention because they aligned these provisions with other New York statutes. First, in 2024, new penal laws for rape and sexual offenses went into effect, redefining offenses in the first, second, and third degrees.[38] CPLR sections 213-c and 215 set out the statute of limitations for civil claims stemming from sexual offenses.[39] Accordingly, in 2024, when the Legislature amended the laws for rape and sexual offenses, it also updated references to these crimes in the CPLR.[40]

Section 213-c continues to provide a twenty-year statute of limitations for civil claims stemming from sexual abuse:

> Notwithstanding any other limitation set forth in this article, except as provided in subdivision (b) of section two hundred eight of this article, all civil claims or causes of action brought by any person for physical, psychological or other injury or condition suffered by such person as a result of conduct which would constitute [rape, incest, aggravated sexual abuse, sexual conduct against a child] . . . may be brought against any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of the

33. N.Y. C.P.L.R. 6343(4)(a) (McKinney 2025).

34. *Id.*

35. *See* Act of Dec. 13, 2024, 2024 McKinney's Sess. Laws of N.Y., ch. 575, § 1 (codified at N.Y. C.P.L.R. 8011 (McKinney 2025)).

36. *See* N.Y. C.P.L.R. 8011(a), (h) (McKinney 2025).

37. *See* 2024 McKinney's Sess. Laws of N.Y., ch. 575.

38. *See* Act of Jan. 30, 2023, 2023 McKinney's Sess. Laws of N.Y., ch. 777, §§ 2–5 (codified at N.Y. PENAL LAW §§ 130.20, 130.25, 130.30, 130.35 (McKinney 2025)).

39. *See* N.Y. C.P.L.R. 213-c, 215(8)(b) (McKinney 2025).

40. *See* Act of Jan. 30, 2023, 2024 McKinney's Sess. Laws of N.Y., ch. 23, §§ 39–40.

> said conduct, within twenty years. Nothing in this section shall be construed to require that a criminal charge be brought or a criminal conviction be obtained as a condition of bringing a civil cause of action or receiving a civil judgment pursuant to this section or be construed to require that any of the rules governing a criminal proceeding be applicable to any such civil action.[41]

Section 215 continues to extend the statute of limitations in a civil case if there is a related criminal prosecution for a sexual offense:

> Whenever it is shown that a criminal action against the same defendant has been commenced with respect to the event or occurrence from which a claim governed by this section arises, and such criminal action is for rape in the first degree as defined in section 130.35 of the penal law, or a crime formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, the plaintiff shall have at least five years from the termination of the criminal action as defined in section 1.20 of the criminal procedure law in which to commence the civil action, notwithstanding that the time in which to commence such action has already expired or has less than a year remaining. [42]

II. COURT RULE CHANGES

During the *Survey* period, a noteworthy change to trial and county court rules was the new requirement for immediate sealing of any application to change a name or sex designation.[43] The clerk of the court must take "all reasonable steps necessary to seal and safeguard" the applicant's current name and sex designation, as well as the applicant's proposed name and sex designation.[44] For example, the application should proceed with an anonymous caption.[45] If the court later determines that the application should not remain sealed, it must direct the applicant to complete another copy of the application with confidential information redacted or removed.[46]

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41. N.Y. C.P.L.R. 213-c (McKinney 2025).
42. N.Y. C.P.L.R. 215(8)(b) (McKinney 2025).
43. *See* N.Y. CT. R. 202.5(e)(5)(i) (McKinney 2025).
44. N.Y. CT. R. 202.5(e)(5)(ii) (McKinney 2025).
45. *See id.*
46. *See* N.Y. CT. R. 202.5(e)(5)(iv) (McKinney 2025).

Another noteworthy change concerned the monetary threshold for the Commercial Division. Cases involving equitable or declaratory relief now must meet monetary thresholds based on "the value of the object of the action."[47] This valuation includes "the value of the suit's intended benefit, the value of the right being protected, or the value of the injury being averted, whichever is greatest."[48]

III. CASE LAW DEVELOPMENTS

Below are summaries for nearly two dozen cases from the Court of Appeals and appellate divisions during the *Survey* period. The selected cases discuss timeliness, personal jurisdiction, service of process, venue, disclosure, accelerated judgment, and issue preclusion. Each appeal could serve as a discrete case study of how New York appellate courts seek to apply procedural law fairly and consistently. Viewed together, though, a theme that emerges is that procedural law continues to affect the outcome in high-profile cases. This *Survey*, for example, includes cases related to child sexual abuse,[49] the 2022 mass shooting in Buffalo,[50] and legislative maps.[51] Importantly, questions of procedural law prompted rigorous dissents at the Court of Appeals.[52]

A. Timeliness

The Court of Appeals upheld a two-year limitations period in a contract in *Farage v. Associated Insurance Management Corporation*.[53] Six years after a fire consumed an apartment building in Staten Island, the owner sued the insurers of the building for breach of contract.[54] Plaintiff sought compensation for the value of the property and lost business income, but the defendants moved to dismiss the claim as untimely.[55] The insurance policy at issue required repair of the building before seeking replacement costs and commencement of any

47. N.Y. CT. R. 202.7(b) (McKinney 2025).
48. *Id.*
49. *See infra* notes 154–63 and 172–86 and accompanying text.
50. *See infra* notes 98–102 and accompanying text.
51. *See infra* notes 164–67 and accompanying text.
52. *See, e.g.*, *infra* notes 53–67 and 172–86 and accompanying text; *see also* Sabine v. State, 262 N.E.3d 239 (N.Y. 2024) (holding that a question of prejudgment interest was unpreserved for appellate review).
53. *See* Farage v. Associated Ins. Mgmt. Corp., 256 N.E.3d 644, 645 (N.Y. 2024).
54. *See id.* at 645–46.
55. *See id.*

legal action within two years of damage to the building.[56] Plaintiff challenged the limitations period as unreasonable, noting the "massive structural damage wrought by the fire."[57] The Court, however, disagreed:

> [P]laintiff failed to allege actions that she took to complete the repairs within two years; she did not provide any details regarding the extent of the damage, other than that the damage was 'massive' and the fire set off four alarms, or why complete restoration within two years was an impossibility.[58]

The Court reasoned further that plaintiff failed to inform the defendants that the repairs could not be completed within two years.[59]

Judge Rivera, joined by Chief Judge Wilson and Judge Halligan, dissented, emphasizing that courts must review pleadings liberally.[60] The dissenters found sufficient factual allegations in plaintiff's description of the fire's damage, as well as defendants' obstruction of the insurance claim and restoration efforts.[61] Overall, for the dissenting judges, plaintiff's complaint "put defendants on notice that she intended to prove that her property could never have reasonably been replaced in less than two years."[62]

The majority and dissent relied heavily on *Executive Plaza, LLC v. Peerless Insurance Company*, in which the Court of Appeals held that a two-year limitations period in a fire insurance policy was unenforceable because the property could not reasonably be replaced within that time period.[63] The majority in *Farage* distinguished the case because the plaintiff in *Executive Plaza* specified remedial actions taken to repair the property within the limitations period.[64] That plaintiff also filed suit against the insurance company within the limitations period.[65] The dissenting judges, on the other hand, noted that even if the complaint in *Executive Plaza* was more detailed, the Court's opinion for that case did not change liberal pleading

56. *See id.* at 645.
57. *Id*. at 648.
58. *Farage*, 256 N.E.3d at 648.
59. *See id*.
60. *See id.* at 650–53 (Rivera, J., dissenting).
61. *See id.* at 650–51 (Rivera, J., dissenting).
62. *Id.* at 651 (Rivera, J., dissenting).
63. *See* Executive Plaza, LLC v. Peerless Ins. Co., 5 N.E.3d 989 (N.Y. 2014).
64. *See Farage*, 256 N.E.3d at 648.
65. *See id.*

standards.[66] Nor, according to the dissenters, did the opinion create a notice requirement for these types of insurance claims.[67]

In a second appeal, *Ruisech v. Structure Tone Inc.*, the Court of Appeals clarified timeliness for appeals in cases subject to electronic filing.[68] The Court held that filing a copy of a trial court order with the New York State Courts Electronic Filing System starts the thirty-day clock for a motion for leave to appeal.[69] Because plaintiffs in this case moved for leave to appeal thirty-one days after the electronic filing by one of the defendants, their appeal against that defendant was untimely.[70]

For timeliness, also consider two appellate division cases applying CPLR 205(a), which extends the statute of limitations for filings that revisit dismissed cases.[71] The extension applies if a new filing shares the same transaction and occurrence as the previously dismissed claim and if the same litigant filed both claims.[72] Also, the previous case must not have been dismissed on the merits or for plaintiff's failure to prosecute the claim, among other grounds.[73] In *Tumminia v. Staten Island University Hospital*, the Second Department held that section 205(a) may be applied successively:[74]

> [W]hen there are three successive actions filed, with the second and third being commenced within six months of the dismissal of the previous action, the third action "would have been timely commenced at the time of commencement of" the second action because, as a result of CPLR 205(a), the second action was timely. The fact that the second action was timely only as a result of the operation of CPLR 205(a) does not detract from the fact that it was, in fact, timely, meaning that the third action "would have been timely commenced at the time of commencement" of the second action.[75]

66. *See id.* at 652 (Rivera, J., dissenting).
67. *See id.* at 653 (Rivera, J., dissenting).
68. *See generally* Ruisech v. Structure Tone Inc., 250 N.E.3d 1196 (N.Y. 2024).
69. *See id.* at 1198.
70. *See id.* at 1198–99.
71. *See* N.Y. C.P.L.R. 205(a) (McKinney 2025).
72. *See id.*
73. *See id.*
74. *See* Tumminia v. Staten Island Univ. Hosp., 237 N.Y.S.3d 90, 97 (App. Div. 2d Dep't 2025).
75. *Id.*

Note that the U.S. Court of Appeals for the Second Circuit interpreted section 205(a) differently in 2021.[76] It held that a litigant could not file a new action within six months of a prior action that was itself only timely by operation of section 205(a).[77] The Second Department in *Tumminia* disagreed with the Second Circuit and confirmed that the federal court's interpretation was not binding on New York courts.[78]

A second appellate division case applying section 205(a) was *Williams v. State*, which concerned a filing in the Court of Claims.[79] The Third Department disallowed a claim that was timely filed but not timely served.[80] The claimant could rely on section 205(a) for the timeliness of the claim because the Court of Claims does not have a similar provision of its own.[81] The claimant could not, however, rely on service after filing under CPLR section 306-b[82] because the Court of Claims has its own protocol.[83] Specifically, unlike section 306-b, the Court of Claims requires filing and service to start a lawsuit.[84]

B. Personal Jurisdiction

During the *Survey's* period, questions of personal jurisdiction arose across tort, contract, and commercial cases. Importantly, the Court of Appeals considered waiver of personal jurisdiction in *Gibson, Dunn & Crutcher LLP v. Koukis*.[85] A simple version of the question presented was whether an attorney validly waived personal jurisdiction on behalf of one of the defendants.[86] Complicating the appeal, though, were layers of facts about whether the attorney was properly retained for this defendant, and even if not, whether the defendant later ratified the attorney's actions.[87] The trial court ruled that the attorney lacked authority to waive personal jurisdiction for this defendant.[88] The First Department agreed, although two judges dissented.[89] The Court of Appeals held that the matter necessitated a factual hearing

76. *See* Ray v. Ray, 22 F.4th 69, 74–75 (2d Cir. 2021).
77. *See id.*
78. *See Tumminia*, 237 N.Y.S.3d at 96.
79. *See* Williams v. State, 235 N.Y.S.3d 491, 493 (App. Div. 3d Dep't 2025).
80. *See id.* at 494.
81. *See id.* at 493–94.
82. *See* N.Y. C.P.L.R. 306-b (McKinney 2025).
83. *See Williams*, 235 N.Y.S.3d at 494.
84. *See* CT. CL. ACT § 11(a)(i) (McKinney 2025).
85. *See* Gibson, Dunn & Crutcher LLP v. Koukis, 267 N.E.3d 125 (N.Y. 2025).
86. *See id.*
87. *See id.* at 126–28.
88. *See id.* at 126.
89. *See id.* at 127.

and remitted the case to the trial court.[90] The trial court confirmed that agency principles applied to the attorney's relationship with the defendant and the attorney's alleged waiver of personal jurisdiction on the defendant's behalf.[91]

Next, the Fourth Department found personal jurisdiction for a contract claim in *Applied Healthcare Research Management v. Ibrahim*.[92] Plaintiff alleged that the defendant, a Texas domiciliary, breached the parties' contract and shared defamatory letters with plaintiff's clients.[93] The court rejected the defendant's challenge to personal jurisdiction for two reasons. First, the defendant "purposefully entered into a months-long contract with plaintiff that required her to project herself into New York to retrieve digital files from plaintiff's New York-based server, including software, proprietary data, and examples of prior work."[94] The defendant knew she would be doing so from the start of the contract.[95] Second, the breach claim stemmed from the defendant allegedly not delivering data models.[96] Promising to ship goods or services to New York may lead to personal jurisdiction even if the goods are never shipped or the services are never provided in the state.[97]

The Fourth Department also allowed for the possibility of personal jurisdiction in *Salter v. Meta Platforms, Inc*.[98] Plaintiffs in this case represent the victims of the 2022 mass shooting in Buffalo.[99] The defendants, who are not domiciled in New York, are the CEO and spokesperson of the company that made the body armor that the shooter wore during the attack.[100] The trial court ruled that the claims against the individual defendants did not comport with New York's long arm statute.[101] Nevertheless, the appellate court allowed for discovery as to whether New York could assert personal jurisdiction over

90. *See Gibson*, 267 N.E.3d at 129.
91. *See id.* at 128.
92. *See* Applied Healthcare Rsch. Mgmt. v. Ibrahim, 223 N.Y.S.3d 454, 457 (App. Div. 4th Dep't 2024).
93. *See id.* at 456.
94. *Id.*
95. *See id.* at 456–57.
96. *See id.* at 457.
97. *See Applied Healthcare*, 223 N.Y.S.3d at 457.
98. *See* Salter v. Meta Platforms, Inc., 239 N.Y.S.3d 406 (App. Div. 4th Dep't 2025).
99. *See id.* at 408.
100. *See id.*
101. *See id.*

the individual defendants, separate from any jurisdiction over the body armor company.[102]

On the other hand, the First Department did not find personal jurisdiction for a commercial tort in *Murray v. Stone*.[103] Plaintiff sued a South African hunting guide and his company in New York for misrepresentation and fraudulent inducement.[104] The court confirmed that "in the context of a commercial tort, where the damage is solely economic, the situs of a commercial injury is where the original critical events associated with the action or dispute took place, not where any financial loss or damages occurred."[105] Because the alleged wrongs happened outside of New York, personal jurisdiction was lacking in New York.[106] Financial loss in New York is not enough for the assertion of personal jurisdiction in a commercial tort.[107]

The Second Department also found personal jurisdiction lacking in *Trotman v. Priority Auto, Inc*.[108] Plaintiff was injured while driving a rental truck in New York.[109] He sued the defendants, Vermont corporations, for their servicing of the truck in Vermont before the accident and cited CPLR section 302(a)(3) for long-arm jurisdiction.[110] The appellate court disagreed, reasoning that even if the defendants committed tortious acts that caused plaintiff harm in New York, the plaintiff failed to show that the defendants engaged in regular business in New York.[111]

Regarding contract claims, the Third Department held it did not have personal jurisdiction in *PowerFlex Solar, LLC v. Solar PV Pros, LLC*.[112] The parties in this case had several agreements that were negotiated in California and Illinois, and California law governed them.[113] Also, the defendants did not solicit business in New York or

102. *See id.* at 409.

103. *See* Murray v. Stone, 219 N.Y.S.3d 272, 273 (App. Div. 1st Dep't 2024).

104. *See* Murray v. Stone, No. 157220/2021, 2023 WL 5167722, at *1 (N.Y. Sup. Ct. Aug. 11, 2023).

105. *Murray*, 219 N.Y.S.3d at 273.

106. *See id.*

107. *See id.*

108. *See* Trotman v. Priority Auto, Inc., 221 N.Y.S.3d 580, 582 (App. Div. 2d Dep't 2024).

109. *See id.*

110. *See id.* at 582; *see also* N.Y. C.P.L.R. 302(a)(3) (McKinney 2025).

111. *See Trotman*, 221 N.Y.S.3d at 582.

112. *See* PowerFlex Solar, LLC v. Solar PV Pros, LLC, 217 N.Y.S.3d 694, 698–99 (App. Div. 3d Dep't 2024).

113. *See id.* at 697.

send employees to New York on their behalf.[114] At least one of the agreements included a New York billing address, but the contracted goods were never shipped, and if they had been shipped, New York sales tax would not have been collected.[115] Moreover, the court treated the agreements separately for purposes of personal jurisdiction because they concerned different projects, did not reference one another, and no evidence suggested that they should be read together.[116]

C. Service of Process

Three appellate division cases warrant mention for their discussion of service of process during the *Survey* period. In *CitiMortgage v. Goldstein*, the Second Department discussed the prima facie case for adequate service of process, entitlement to a hearing about service of process, and when a defendant may be estopped from challenging the address where service was effectuated.[117] The case involved a mortgage foreclosure action against multiple defendants, although the primary focus was service of process on one of the defendants.[118]

For that defendant, a process server affixed a copy of the summons and complaint to the door of the mortgaged property and to the door of the defendant's former businesses.[119] The process server also mailed a copy of the summons and complaint to both addresses.[120] Though these steps followed proper service, the court held that the defendants rebutted the presumption of proper service by showing that this defendant had left the mortgaged property about seventeen months before service and rented the property to tenants.[121] Also, the court held that the defendant was entitled to challenge service of process even though he did not update his address with plaintiff or the post office, and even though he forwarded his mail to two other addresses.[122] These actions and inactions did not equate to affirmative conduct to mislead plaintiff about where to serve him.[123]

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114. *See id.*
115. See *id.*
116. *See id.* at 698.
117. *See* CitiMortgage, Inc. v. Goldstein, 220 N.Y.S.3d 47, 51–52 (App. Div. 2d Dep't 2024).
118. *See id.* at 50–51.
119. *See id.* at 51.
120. *See id.*
121. *See id.*
122. *See CitiMortgage*, 220 N.Y.S.3d at 51–52.
123. *See id.*

Judge Maltese dissented for the discussion of service of process, finding "calculated" conduct in the defendant's renting of the property even though he stopped paying the mortgage, failure to update plaintiff about his change of address, and forwarding of his mail.[124] The dissent reasoned that the defendant should have "anticipated" service of process for this action, given the outstanding mortgage and previous foreclosure actions.[125] The majority, however, would not impose "any heightened obligation" on a person who "has reason to believe that he or she will be named as a defendant in a foreclosure action."[126]

The process server in *CitiMortgage* used CPLR 308(4),[127] which allows affixing and mailing the summons and complaint to a home or business if serving them on a person or agent has failed.[128] Readers may be interested in two more cases that questioned plaintiff's use of affix and mail service. In *Creswell Investments Limited v. Brazil+Q1 Limited*, the Second Department held that plaintiff failed to prove due diligence for personal service before turning to affix and mail.[129] The process server stated in an affidavit that he attempted personal service at the defendant's home three times, but all the attempts were between 10:00 a.m. and 1:00 p.m. and two of the attempts were on consecutive days.[130] Likewise, in *Sams Distributions, LLC v. Friedman*, the Second Department held that plaintiff improperly relied on affix and mail service.[131] The process server attempted personal service twice at the defendant's home, but these attempts were during work hours when the defendant might reasonably be out of the home.[132] Also, plaintiff did not produce evidence that the process server "made any genuine inquiries about the defendant's whereabouts and place of business."[133]

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124. *See id.* at 53–54 (Maltese, J., dissenting).

125. *See id.* at 54 (Maltese, J., dissenting).

126. *Id.* at 52.

127. *See CitiMortgage*, 220 N.Y.S.3d at 51; *see also* N.Y. C.P.L.R. 308(4) (McKinney 2025).

128. *See CitiMortgage*, 220 N.Y.S.3d at 51.

129. *See* Creswell Invs., Ltd. v. Brazil+Q1 Ltd., 226 N.Y.S.3d 246, 248 (App. Div. 2d Dep't 2025).

130. *See id.*

131. *See* Sams Distribs., LLC v. Friedman, 229 N.Y.S.3d 186, 188 (App. Div. 2d Dep't 2025).

132. *See id.*

133. *Id.*

D. Venue

Forum selection clauses, of course, may bind civil litigants for venue purposes.[134] In *Knight v. New York & Presbyterian Hospital*, the Court of Appeals upheld a forum selection clause that set venue in Nassau County.[135] Plaintiff, administrator of his mother's estate, filed a negligence and wrongful death action against the rehabilitation center where his deceased mother resided.[136] Plaintiff filed in the Supreme Court of New York County, but the rehabilitation center moved to transfer venue to Nassau County based on two agreements that the mother had signed when she was admitted to the rehabilitation center.[137] The mother electronically signed these documents.[138] Plaintiff then challenged the authenticity of the signatures, offering an example of his mother's signature for comparison.[139]

The Supreme Court allowed the transfer of venue.[140] At the appellate division, however, plaintiff succeeded in persuading the court that the rehabilitation center failed to establish the authenticity of the admission documents.[141] One judge dissented.[142] The Court of Appeals then reversed, holding that the rehabilitation center met its burden of authentication with an affidavit from its director of admissions.[143] Although the director did not remember plaintiff's mother, she explained the rehabilitation center's practice of reviewing admission documents with all admittees, and the signature of a rehabilitation center representative on the mother's admission forms signified such review.[144]

Once the defendant provided the affidavit, the burden shifted to plaintiff to show unenforceability of the forum selection clause.[145] Plaintiff's affidavit stating familiarity with his mother's signature and asserting that "whoever the person or people who signed and initialed

134. *See* N.Y. C.P.L.R. 501 (McKinney 2025).

135. *See* Knight v. N.Y. & Presbyterian Hosp., 252 N.E.3d 496, 497 (N.Y. 2024).

136. *See id.*

137. *See id.*

138. *See id.*

139. *See id.*

140. *See Knight*, 252 N.E.3d at 497–98.

141. *See id.* at 498.

142. *See id.*

143. *See id.* at 499.

144. *See id.* at 499–500.

145. *See Knight*, 252 N.E.3d at 500.

these pages may have been, it was not my mother" was insufficient.[146] Nor was the example attached to the affidavit of his mother's handwritten signature sufficient because its timing was unclear and handwritten signatures may differ from electronic signatures.[147]

During the *Survey* period, two more appellate cases considered plaintiff's residency in determining an inconvenient forum.[148] In *Haussmann v. Baumann*, the Court of Appeals upheld dismissal of a shareholder suit in New York County against a German company as an inconvenient forum.[149] The Court held that the New York residency of one of the plaintiffs did not require keeping the case in New York, and the trial court "considered all relevant factors and made no legal error in doing so."[150] Relatedly, in *Zhakiyanov v. Ogai*, the First Department noted that "although plaintiff's residence is not dispositive, it is the 'most significant factor' in the forum non conveniens analysis."[151] The court affirmed dismissal of a suit in New York County by Kazakhstani plaintiffs against Kazakhstani defendants, involving Kazakhstani law and witnesses.[152] Two of the defendants were New York companies, but their connection to the lawsuit was "limited."[153]

E. Disclosure

Naturally, discovery disclosure[154] surfaced in many cases during the *Survey* period, but disclosure in child sexual abuse claims received special attention. These cases focused on the names of non-parties that should be disclosed, types of files that should be disclosed, and relevant time periods for disclosure. One might think of these categories as the "who," "what," and "when" of disclosure in sexual abuse cases.

For the "who" of disclosure, in *J.L. v. Archdiocese of New York* and *T.B. v. Roman Catholic Archdiocese of New York*, the First Department affirmed disclosure of the names of victims allegedly abused by the same priest who allegedly abused each of the plaintiffs in these

146. *Id.*
147. *See id.*
148. *See* N.Y. C.P.L.R. 327(a) (McKinney 2025).
149. *See* Haussmann v. Baumann, 270 N.E.3d 603, 604 (N.Y. 2025).
150. *Id.*
151. Zhakiyanov v. Ogai, 236 N.Y.S.3d 40, 41 (App. Div. 1st Dep't 2025) (quoting Thor Gallery at S. DeKalb v. Reliance Mediaworks Inc., 15 N.Y.S.3d 766, 768 (App. Div. 1st Dep't 2015)).
152. *See id.* at 41.
153. *See id.* at 41–42.
154. *See* N.Y. C.P.L.R. 3101 (McKinney 2025).

cases.[155] The court held that the disclosure of these names could lead to more discoverable material.[156] The First and Second Departments, however, held that victims allegedly abused by other priests should be redacted from disclosures.[157] Relatedly, in *Martin v. Kaleida Health*, which was not a sexual abuse case, the Fourth Department directed disclosure of a non-party's medical file.[158] Plaintiff claimed that the defendant hospital was negligent in allowing plaintiff to share a room with the non-party who had COVID-19.[159]

The First Department also affirmed in two appeals the disclosure of files from the Archdiocese's Independent Reconciliation and Compensation Program, the "what" of disclosure in child sexual abuse cases.[160] The court held that the files responded to each plaintiff's request for information about other complaints against the priests and the Archdiocese's response to those complaints.[161] For the "when" of disclosure, in *C.T. v. Diocese of Brooklyn*, the Second Department affirmed disclosure of personnel files even though the Diocese created them after the alleged abuse, because they might show the Diocese's knowledge of the subject priest's propensity toward abuse.[162] Yet, plaintiff was not entitled to disclosure of the priest's mental health treatment following retirement.[163]

Regarding disclosure from non-parties, in *Coads v. Nassau County*, the Second Department upheld subpoenas against two of them.[164] Plaintiffs sued Nassau County for the legislative map it introduced in 2023.[165] They sought discovery from a non-party who testified publicly about the map and another non-party who analyzed legal requirements for the map.[166] The appellate court considered this

155. *See* J.L. v. Archdiocese of N.Y., 231 N.Y.S.3d 28, 29 (App. Div. 1st Dep't 2025); T.B. v. Roman Cath. Archdiocese of N.Y., 232 N.Y.S.3d 20, 22 (App. Div. 1st Dep't 2025).

156. *See J.L.*, 231 N.Y.S.3d at 29; *T.B.*, 232 N.Y.S.3d at 22.

157. *See T.B.*, 232 N.Y.S.3d at 22; C.T. v. Diocese of Brooklyn, 237 N.Y.S.3d 228, 231 (App. Div. 2d Dep't 2025).

158. *See* Martin v. Kaleida Health, 230 N.Y.S.3d 851, 852–53 (App. Div. 4th Dep't 2025).

159. *Id.* at 852.

160. *See J.L.*, 231 N.Y.S.3d at 29; *T.B.*, 232 N.Y.S.3d at 21.

161. See *J.L.*, 231 N.Y.S.3d at 29–30; *T.B.*, 232 N.Y.S.3d at 21.

162. *See C.T.*, 237 N.Y.S.3d at 230–31.

163. *See id.* at 231.

164. *See* Coads v. Nassau Cnty., 221 N.Y.S.3d 124, 128 (App. Div. 2d Dep't 2024).

165. *See id.* at 127.

166. *See id.*

discovery relevant and non-privileged, and the legislative privilege did not preclude discovery.[167]

F. Accelerated Judgment

Accelerated judgments interlace procedure and substance, so that it is difficult to discuss the procedural law without dwelling in substance first. Reciting, for example, the procedural standard for a motion to dismiss[168] or a motion for summary judgment[169] means little without real disputes and facts. Consequently, most of the cases in which appellate courts applied procedural law for accelerated judgment would be better understood in a discussion of the substantive law that governed. An appeal, for example, applying summary judgment to a dog-bite case, would be better understood as a matter of tort law.[170] Likewise, an appeal about a motion to dismiss in landlord-tenant litigation would be better understood in a discussion of property law.[171]

Nonetheless, *Nellenback v. Madison County* warrants attention because of its significance for how constructive notice operates in summary judgment.[172] In this case, a caseworker at the Department of Social Services ("DSS") in Madison County sexually abused plaintiff when he was a child.[173] The caseworker was convicted and imprisoned for abusing other children.[174] Then, in 2019, plaintiff sued Madison County for negligent hiring and supervision of the caseworker.[175] The County moved for summary judgment, arguing that plaintiff could not meet the knowledge element for these torts.[176] No evidence existed that the County had actual knowledge of the caseworker's propensity for child sexual abuse.[177] Nor, the County argued, did evidence exist showing constructive knowledge.[178]

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167. *See id.* at 128.
168. *See* N.Y. C.P.L.R. 3211 (McKinney 2025).
169. *See* N.Y. C.P.L.R. 3212 (McKinney 2025).
170. *See* Flanders v. Goodfellow, 267 N.E.3d 622, 624 (N.Y. 2025).
171. *See* Burrows v. 75-25 153rd St., LLC, 267 N.E.3d 1180, 1181–82 (N.Y. 2025).
172. *See* Nellenback v. Madison Cnty., 273 N.E.3d 228, 235 (N.Y. 2025).
173. *See id.* at 230.
174. *See id.*
175. *See id.*
176. *See id.*
177. *See Nellenback*, 273 N.E.3d at 231.
178. *See id.*

Plaintiff responded with two primary pieces of evidence: (1) the testimony of a DSS supervisor who admitted that she did not review caseworkers' files "as regularly as [she] should have"; and (2) the testimony of a former caseworker who described supervision as "lax."[179] Before the Court of Appeals, plaintiff further argued that the lack of records documenting his caseworker's interactions with him as a child was significant.[180]

The Supreme Court found, and the Third Department and Court of Appeals held, that plaintiff did not raise a triable issue on the County's knowledge, so summary judgment was appropriate.[181] But two judges at the Third Department dissented, as did Judge Rivera on the Court of Appeals.[182]

Chief Judge Wilson, writing for the majority, explained that the lack of records did not prove knowledge.[183] Instead, it reflected the passage of time and an earlier culture at DSS of limited reporting.[184] Moreover, the majority wrote: "we have never held that a party can prove negligent supervision by stating the employer 'should have known' an employee was likely to engage in dangerous conduct without evidence showing any prior conduct, warnings, or signs of risk to that effect."[185] For the dissent, "[t]he parties' respective submissions demonstrate lax supervision largely reliant on self-reporting, which a factfinder could readily conclude constituted a breach of the County's duty of care."[186]

G. Preclusion

The Court of Appeals addressed collateral estoppel (issue preclusion) in *Kasowitz, Benson, Torres & Friedman, LLP v. JPMorgan Chase Bank, N.A.*[187] The case began with two units in The Dakota apartment building in New York City.[188] Alphonse Fletcher acquired the units in 2008 with a mortgage from Chase Bank.[189] In the first

179. *Id.* at 230–31.
180. *See id.* at 232.
181. *See id.* at 229–30, 235.
182. *See Nellenback*, 273 N.E.3d at 231, 235.
183. *See id* at 233–34.
184. *See id.* at 234–35.
185. *Id.* at 234.
186. *Id.* at 240 (Rivera, J., dissenting).
187. *See* Kasowitz, Benson, Torres & Friedman, LLP v. JPMorgan Chase Bank, 258 N.E.3d 1186, 1190–91 (N.Y. 2024).
188. *See id.* at 1188.
189. *See id.*

lawsuit, Fletcher sued The Dakota for racial discrimination, but The Dakota successfully moved for summary judgment.[190] The Dakota also won on its counterclaim for legal fees and costs, stemming from a clause in the lease agreement that allowed it to accrue "all expenses" related to a lessee's default.[191]

In a second action, however, the law firm that represented Fletcher sued Chase Bank, The Dakota, and Fletcher, seeking to sell the units to compensate it for unpaid legal fees.[192] The Dakota and Chase Bank then battled over which party held superior liens on the units.[193] Collateral estoppel surfaced when The Dakota argued that the lease agreement from the first action bound Chase Bank in the second action.[194]

The Court of Appeals disagreed. It reasoned that in 2008, Fletcher assigned to Chase the interest he held in the units at that time.[195] Fletcher's lawsuit against The Dakota happened three years later and the "subsequent judgment in that action could not have defined the prior interest that Fletcher assigned to Chase."[196] Moreover, the Court noted that although the lease agreement bound Chase to "an inferior creditor status as against The Dakota," it did not "prohibit Chase from challenging in the first instance The Dakota's entitlement under the lease provision to a post-assignment fee award incident to the property."[197] Nor was Chase required to intervene in Fletcher's lawsuit against The Dakota because that would be "inconsistent with New York's Civil Practice Law and Rules and with federal due-process principles."[198]

CONCLUSION

This *Survey* demonstrates the vibrancy of New York civil practice law. Legislators and appellate judges continue to work for fair process while responding to changes in law, policy, and technology. And faced with these changes, practitioners can continue to practice civil litigation ethically and strategically.

190. *See id.*
191. *See id.*
192. *See Kasowitz*, 258 N.E.3d at 1188.
193. *See id.* at 1188–89.
194. *See id.*
195. *See id.* at 1190.
196. *Id.* at 1191.
197. *Kasowitz*, 258 N.E.3d at 1191.
198. *Id.*