

NY CLS CPLR, Art. 30

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Article 30 Remedies and Pleading (§§ 3001 — 3045)

Article 30 Remedies and Pleading

History

Add, L 1962, ch 308, § 1, eff Sept 1, 1963; amd, L 1963, ch 532, eff Sept 1, 1963.

Annotations

Notes

Advisory Committee Notes:

The provisions of §§ 3002 to 3005 of this article replace, with only minor language changes, CPA §§ 9, 112-a through 112-i, 211-a, 543(2) and 1340. They regulate rights of action and the availability of certain kinds of relief; and they have been treated together in this article because they deal with particular actions and relief not treated independently anywhere else in the new CPLR. The former location of CPA §§ 112-a through 112-i, in the article governing “Mistakes, Defects and Irregularities,” seems inappropriate.

This article is designed to conserve some of the time, energy and expense now dissipated in disputes over pleadings. It is intended that the article elicit pleadings sufficiently particularized to enable the opponent adequately to prepare his case and to enable the court to control disclosure under article 31.

Although the statement required will be factual there is no express requirement that a pleading state “material facts”—a phrase that has resulted in much needless litigation. It is intended that the considerable judicial effort formerly expended in distinguishing “evidence” or “conclusions” from “facts” may be directed to more useful purposes.

The pleading of certain matters, however, cannot be adequately covered by a general rule and illustrative forms. CPLR § 3015 deals with the pleading of some of these particular matters and rule 3016 deals with pleading in particular kinds of actions. Rule 3016 provides explicitly for the great bulk of litigation in New York.

The former practice respecting verification of pleadings is continued by CPLR § 3020.

Section 3019, regarding counterclaims and cross-claims brings together the former widely scattered provisions as far as is practicable. They have not been substantially changed although a cross-claim now requires an answer. Similarly, § 3025 consolidates and clarifies former provisions regarding amendments and supplemental pleadings; it also contains some innovations.

This article should be read in the light of (1) article 32 which provides a comprehensive system of motions supported by affidavits to dispose of cases on their merits before trial, and (2) the provisions of article 31 for disclosure devices such as requests to admit and power in a single judge or referee to supervise all disclosure in a case.

Research References & Practice Aids

Jurisprudences:

90 NY Jur 2d Real Property—Possessory and Related Actions § 204. .

