

## NY CLS CPLR § 4537

Current through 2025 released Chapters 1-207

*New York*

*Consolidated Laws Service* >  
*Civil Practice Law And Rules (Arts. 1 — 100)* >  
*Article 45 Evidence (§§ 4501 — 4551)*

### **§ 4537. Proof of writing subscribed by witness**

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Unless a writing requires a subscribing witness for its validity, it may be proved as if there was no subscribing witness.

### **History**

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Formerly § 4537, add, L 1962, ch 308; amd, L 1962, ch 315, § 1, eff Sept 1, 1963.

Annotations

### **Notes**

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#### **Prior Law:**

Earlier statutes: CPA § 331; CCP § 961–b.

#### **Advisory Committee Notes:**

This rule is a restatement of former § 331.

### **Notes to Decisions**

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#### **1. Under prior law**

A person is not competent to prove an instrument as a subscribing witness if he was not requested to sign his name as a subscribing witness by the party executing the instrument. *Keppler v Nessler*, 225 A.D. 99, 232 N.Y.S. 232, 1928 N.Y. App. Div. LEXIS 8753 (N.Y. App. Div. 1928).

When an action is brought on a written agreement which is signed, the paper is proved by proving the signature. *Publication Div. of International Transp. Ass'n v Blakeslee*, 225 A.D. 229, 232 N.Y.S. 508, 1929 N.Y. App. Div. LEXIS 11607 (N.Y. App. Div. 1929).

Subscribing or attesting witness defined. *In re Rothstein's Estate*, 233 N.Y.S. 235, 133 Misc. 547, 1929 N.Y. Misc. LEXIS 676 (N.Y. Sur. Ct. 1929).

## **Research References & Practice Aids**

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### **Federal Aspects:**

Authentication and identification of handwriting in United States courts, USCS Court Rules, Federal Rules of Evidence, Rule 901(b)(2).

Handwriting as documentary evidence in United States courts, 28 USCS § 1731.

### **Jurisprudences:**

58 NY Jur 2d Evidence and Witnesses § 462. .

### **Law Reviews:**

Evidence symposium. 52 Cornell L.Q. 177.

Civil jury trial: your proof. 42 NYSB J 52.

### **Treatises**

### **Matthew Bender's New York Civil Practice:**

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 4537, Proof of Writing Subscribed by Witness.

**Warren's Weed New York Real Property:**

Warren's Weed: New York Real Property § 122.32.

**Annotations:**

Admissibility of evidence as to linguistics or typing style (forensic linguistics) as basis of identification of typist or author. 36 ALR4th 598.

**Texts:**

1 Bender's New York Evidence § 115.02.

2 New York Trial Guide (Matthew Bender) §§ 20.20, 30.10.

**Hierarchy Notes:**

NY CLS CPLR, Art. 45

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