

NY CLS CPLR R 4533

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New York

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

R 4533. Market reports.

A report of a regularly organized stock or commodity market published in a newspaper or periodical of general circulation or in an official publication or trade journal is admissible in evidence to prove the market price or value of any article regularly sold or dealt in on such market. The circumstances of the preparation of such a report may be shown to affect its weight, but they shall not affect its admissibility.

History

Formerly § 4533, add, L 1962, ch 308; amd, L 1962, ch 315, § 1; L 1964, ch 388, § 23, eff Sept 1, 1964.

Annotations

Notes

Prior Law

Earlier statutes: CPA § 375–a.

Advisory Committee Notes

The rule is the same as former § 375-a, except for minor language changes.

Notes to Decisions

I.Under CPLR

1.Generally

II.Under Former Civil Practice Laws

2.Evidence admissible

3.Action for deceit

I. Under CPLR

1. Generally

In action for damages for breach of partner's fiduciary duty in division of property received on dissolution of partnership, reports of national quotation bureau, also known as "pink sheets," were properly admissible as "market reports" to show value of over-the-counter stock received in partnership dissolution. *Auld v Estridge*, 86 Misc. 2d 895, 382 N.Y.S.2d 897, 1976 N.Y. Misc. LEXIS 2540 (N.Y. Sup. Ct. 1976), *aff'd*, 58 A.D.2d 636, 395 N.Y.S.2d 969, 1977 N.Y. App. Div. LEXIS 12709 (N.Y. App. Div. 2d Dep't 1977).

II. Under Former Civil Practice Laws

2. Evidence admissible

Market quotation service sheets issued for exclusive use of subscribers not admissible under CPA § 375-a. *Horgan v Frenkel, Kovac & Co.*, 293 N.Y.S. 264, 161 Misc. 493, 1936 N.Y. Misc. LEXIS 1635 (N.Y. App. Term 1936).

Stock quotations, published by National Quotation Bureau, were admissible in evidence on value of stock, though of limited probative value. *Fistel v Christman*, 135 F. Supp. 830, 1955 U.S. Dist. LEXIS 2661 (D.N.Y. 1955).

3. Action for deceit

In actions for deceit in the sale of bonds, periodicals giving reports of bid and asked quotations are admissible as proof of market value. *People v S. W. Straus & Co.*, 285 N.Y.S. 648, 158 Misc. 186, 1935 N.Y. Misc. LEXIS 1788 (N.Y. Sup. Ct. 1935), modified, 248 A.D. 785, 289 N.Y.S. 209, 1936 N.Y. App. Div. LEXIS 7319 (N.Y. App. Div. 1936), aff'd, 248 A.D. 785, 290 N.Y.S. 423 (N.Y. App. Div. 1936), aff'd, 248 A.D. 785, 290 N.Y.S. 423, 289 N.Y.S. 209, 1936 N.Y. App. Div. LEXIS 7319 (N.Y. App. Div. 2d Dep't 1936).

Research References & Practice Aids

Federal Aspects:

Market reports as exception to hearsay rule in United States courts, USCS Court Rules, Federal Rules of Evidence, Rule 803(17).

Jurisprudences:

6A NY Jur 2d Associations and Clubs § 42. .

19A NY Jur 2d Compromise, Accord, and Release § 101. .

23 NY Jur 2d Contribution, Indemnity, and Subrogation § 61. .

57 NY Jur 2d Evidence and Witnesses § 222. .

58 NY Jur 2d Evidence and Witnesses § 555. .

16B Am Jur Legal Forms 2d, Stock and Commodity Exchanges, Forms 240:12.– 240:16.

Law Reviews:

Over-the-counter market quotations: pink, yellow, green and white sheets—a gray area in the law of evidence. 52 Cornell L.Q. 262.

Prosecutions for attempts to monopolize: the relevance of the relevant market. 42 NYU L Rev 110.

Treatises

Matthew Bender's New York Civil Practice:

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 4533, Market Reports.

Matthew Bender's New York AnswerGuides:

LexisNexis AnswerGuide New York Civil Litigation § 10.08. Admitting Record Under Exceptions to Admission Requirements.

Warren's Weed New York Real Property:

Warren's Weed: New York Real Property § 50.27.

Matthew Bender's New York Evidence:

1 Bender's New York Evidence § 118.09. Authentication of Market Reports.

Matthew Bender's New York Checklists:

Checklist for Introducing Documents and Information into Evidence LexisNexis AnswerGuide New York Civil Litigation § 10.05.

Texts:

3 New York Trial Guide (Matthew Bender) § 40.53.

Hierarchy Notes:

NY CLS CPLR, Art. 45

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