

NY CLS CPLR R 4523

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New York

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

R 4523. Search by title insurance or abstract company

A search affecting real property, when made and certified to by a title insurance, abstract or searching company, organized under the laws of this state, may be used in place of, and with the same legal effect as, an official search.

History

Formerly § 4523, add, L 1962, ch 308; amd, L 1962, ch 315, § 1, eff Sept 1, 1963.

Annotations

Notes

Prior Law:

Earlier statutes: CPA § 385; CCP § 3256.

Advisory Committee Notes:

This rule is the same as former § 385 with minor language changes.

Notes to Decisions

1. Generally

2.Under former law

1. Generally

In a trespass action, plaintiff did not establish a statutory presumption of title pursuant to section 321 of the Real Property Actions and Proceedings Law and CPLR 4523 where his title certificate did not show an unbroken chain of title for 20 years. *Harbor Associates, Inc. v Asheroff*, 35 A.D.2d 667, 317 N.Y.S.2d 897, 1970 N.Y. App. Div. LEXIS 3907 (N.Y. App. Div. 2d Dep't), app. denied, 27 N.Y.2d 490, 1970 N.Y. LEXIS 2234 (N.Y. 1970).

Water power rights resulting from river dam were appurtenant to parcel south of river, rather than to condemned parcel located north of river and formerly owned by claimant seeking just compensation under CLS EDPL § 503, where (1) in late 1800s, water power rights associated with north parcel were severed from land and conveyed to owner of south parcel, who operated dam, (2) title examiner, after searching all relevant conveyances, concluded that 1930 deed relied on by claimant did not reveal any grant of water rights to claimant or its predecessor, (3) affidavit of title insurance firm and certified abstract of title under CLS CPLR §§ 4520 and 4523 declared that claimant did not obtain any water power rights by 1950 conveyance of transmission corridor on north side of river, and (4) absence of reference in deed to grantor's "successors and assigns" did not preclude finding in title abstract that easement was conveyed to south shore owner for continued presence of dam and its flooding needs. *In re Acquisition of Real Prop. by Warrensburg Hydro Power Ltd. Pshp.*, 263 A.D.2d 822, 694 N.Y.S.2d 506, 1999 N.Y. App. Div. LEXIS 8309 (N.Y. App. Div. 3d Dep't 1999).

2. Under former law

Charts showing default in paying taxes on mortgaged property, prepared from tax records by public accountant and aides were admissible where he and one assistant testified, where certification would have been most expensive. *United States v Mortimer*, 118 F.2d 266, 1941

U.S. App. LEXIS 3982 (2d Cir. N.Y.), cert. denied, 314 U.S. 616, 62 S. Ct. 58, 86 L. Ed. 496, 1941 U.S. LEXIS 345 (U.S. 1941).

Research References & Practice Aids

Jurisprudences:

1 NY Jur 2d Abstracts and Land Titles § 5. .

58 NY Jur 2d Evidence and Witnesses § 545. .

1 Am Jur 2d, Abstracts of Title §§ 1 et seq.

Law Reviews:

Evidence symposium. 52 Cornell L.Q. 177.

Treatises

Matthew Bender's New York Civil Practice:

Weinstein, Korn & Miller, New York Civil Practice: CPLR Ch. 4523, Search by Title Insurance or Abstract Company.

Matthew Bender's New York AnswerGuides:

Matthew Bender's New York Practice Guides:

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

Matthew Bender's New York Evidence:

1 Bender's New York Evidence § 118.04. Authentication of Public and Official Documents Dealing with Real Property.

Texts:

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

Hierarchy Notes:

NY CLS CPLR, Art. 45

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