



New York Civil Practice: CPLR

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Articles 1–2

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Ms. Zuech, a graduate of Bernard M. Baruch College, City University of New York and the University of Florida College of Law is a member of the New York and Florida bars. She is the chairperson of the Judges and Lawyers Breast Cancer Alert for the Nassau County Women's Bar Association.

Article 9: THOMAS A. DICKERSON

Thomas A. Dickerson is a Justice of the New York State Supreme Court, White Plains, New York, having graduated from Colgate University (B.A. 1969), Cornell Graduate School of Public & Business Administration (M.B.A. 1973) and Cornell Law School (J.D. 1973). Justice Dickerson is Chairman of the Class Action Committee of the Torts, Insurance & Compensation Law Section of the New York State Bar Association. Justice Dickerson is the author of *Class Actions: The Law of 50 States, Travel Law*, and over 200 published articles on consumer law, travel law and class actions, many of which are available at www.classactionlitigation.com/library/ca_articles.html. Justice Dickerson has also lectured on these topics before attorneys in CLE programs and early in his career practiced law specializing in prosecuting consumer class actions in New York state and federal courts.

Article 12: HON. JOHN M. CZYGIER, JR.

John M. Czygier, Jr. devoted the major portion of his twenty-five years in private practice to the area of estate administration and estate litigation in the metropolitan New York area. He has lectured on these topics in Suffolk, Nassau, Westchester and New York Counties to State and County Bar Associations and is a former Director of the Suffolk County Bar Association where he is a member and former chair of the Surrogate's Court Committee. In 2001, Judge Czygier was appointed Surrogate of Suffolk County by Gov. George Pataki and was elected to a ten-year term as Judge of the Surrogate's Court of Suffolk County.

He is currently a member of the Surrogate's Court Advisory Committee to the Chief Administrative Judge of the Courts of the State of New York, having been appointed to that position by the Hon. J. Lippman in August of 1999. Judge Czygier continues to lecture on the topic of wills and estates to professional and civic organizations, and he is a contributing author to *Warren's Heaton on Surrogates' Courts* and *New York Civil Practice: CPLR (Weinstein, Korn & Miller)*.

Articles 13-16, 23-27, 32, 45, 60, 65, 70, and 71: PROF. JUDSON JENNINGS

Judson Jennings is a member of the faculty of Seton Hall Law School where he teaches Civil Procedure, Remedies, Evidence, and Intellectual Property. He is a graduate of Princeton and Georgetown Universities, and a member of the bar of New York, New Jersey, and the District of Columbia. Professor Jennings served as litigation counsel for the Columbia University Welfare Law Center, Legal Services for the Elderly, and MFY Legal Services in New York City, and as a clinical instructor at New York University Law School.

Articles 20, 21, 31, 72, and 75: PROF. PATRICK M. CONNORS

Patrick M. Connors is an Associate Professor of Law at Albany Law School where he teaches New York Practice, Legal Ethics, a seminar in Professional Responsibility, and Introduction to Civil Procedure. Prior to teaching at Albany Law School, he was an Adjunct Professor of Law at Syracuse University College of Law where he taught Professional Responsibility. Professor Connors received his B.A. degree from Georgetown University and his J.D. degree from St. John's Law School, where he was an editor of the Law Review and research assistant to Professor David D. Siegel. Professor Connors served as personal law clerk to Judge Richard D. Simons of the New York Court of Appeals until 1991. He was a member of the litigation department at Hancock &

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CLASS ACTIONS

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- § 903. Description of class.
- § 904. Notice of class action.
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- § 909. Attorneys' fees.

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§ 901. Prerequisites to a class action.

a. One or more members of a class may sue or be sued as representative parties on behalf of all if:

1. the class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable;
2. there are questions of law or fact common to the class which predominate over any questions affecting only individual members;
3. the claims or defenses of the representative parties are typical of the claims or defenses of the class;
4. the representative parties will fairly and adequately protect the interests of the class; and
5. a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

b. Unless a statute creating or imposing a penalty, or a minimum measure of recovery specifically authorizes the recovery thereof in a class action, an action to recover a penalty, or minimum measure of recovery created or imposed by statute may not be maintained as a class action.

SYNOPSIS

ANALYSIS of CPLR 901

- | | |
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| § 901.00 | Procedural Content of CPLR 901: Prerequisites to Class Actions |
| § 901.01 | Overview, Legislative Purpose and History of Pre-Article 9 Class Actions Described |
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| | [2] History of Class Actions in New York |
| | [a] 1949 New York Field Code |
| | [b] Narrow Treatment of Class Actions Under Former New York Law |
| § 901.02 | Origin of Modern Class Actions in Federal Court Described |
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- ¶ 901.04** Enactment of Article 9 of CPLR Described
¶ 901.05 History of Article 9 Class Actions Described
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 - [2] Filing of Class Action Tolls Statutory and Contractual Time Limitation Periods for Filing Claims
 - [3] Cross Jurisdictional Tolling May Apply
 - [4] Mandatory Arbitration Agreements May Affect Class Representative's Standing
 - [5] Class Wide Arbitration Proceedings May Be Viable Alternative to Class Action Treatment
 - [6] Standing of Defendant Class Representative May Be Based upon Juridical Links
- ¶ 901.07** Plaintiffs and Defendants May Engage in Pre-Class Certification Litigation Practice
¶ 901.08 Judges May Be Subject to Recusal Motions and Attorneys May Be Subject to Disqualification Motions
¶ 901.09 Plaintiffs or Defendants May Make Motions to Dismiss Pleadings on Variety of Grounds
- [1] Complaint May Be Dismissed for Failure to State Cause of Action
 - [2] Complaint May Be Dismissed for Lack of Jurisdiction or on Grounds of Forum Non Conveniens
 - [3] Complaint May Be Dismissed Because Class Representative Lacks Standing
 - [4] Plaintiffs and Defendants May Seek to Strike Class Action Allegations in Complaint
 - [a] Defendants' Motion to Strike Class Action Allegations
 - [b] Plaintiffs' Motion to Strike Class Action Allegations
- ¶ 901.10** Defendant May Remove Class Action to Federal Court and Plaintiff May Remove Class Action Back to State Court
- [1] Removal May Be Based upon Jurisdiction Arising from Aggregation of Class Claims to Meet Amount-in-Controversy Requirement
 - [2] Removal May Be Based upon Supplemental Jurisdiction Under 28 USCS § 1367
 - [3] Removal of Multi-State Class Actions Pursuant to Class Action Fairness Act of 2005
- ¶ 901.11** Competing Class Actions
¶ 901.12 Plaintiffs or Defendants in Competing Class Actions May Seek to Stay Newly Filed Class Actions
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¶ 901.14 Motions for Summary Judgment
- [1] Defendant's Motion for Summary Judgment
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- ¶ 901.15** Defendant May Offer to Settle Independently with Class Representatives

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- § 901.16 Defendant May Communicate with Potential Class Members with or without Court Approval
- § 901.17 Pre-Class Certification Discovery
- [1] Defendants' Discovery of Class Representatives
 - [2] Defendants' Discovery of Unnamed Class Members
 - [3] Plaintiffs' Discovery of Defendant
- § 901.18 Class Action Counterclaims
- § 901.19 Defendant May Assert Counterclaims Against Class Representative and Class Members
- § 901.20 Motion Seeking Class Certification
- § 901.21 Class Sought to Be Represented Must Be Capable of Being Identified
- § 901.22 Class Must Be So Numerous That Joinder Would Be Impracticable
- § 901.23 Common Questions of Law or Fact Must Predominate over Individual Questions
- [1] Differing Individual Damages Amongst Class Members Does Not Defeat Commonality
 - [2] Predominance Analysis for Breach of Contract Class Actions
 - [3] Predominance Analysis for Quasi Contractual Class Actions and Those Seeking Equitable Relief
 - [4] Predominance Analysis for Breach of Warranty Class Actions
 - [5] Predominance Analysis for Common Law Fraud Class Actions
 - [6] Predominance Analysis for Deceptive Business Practices and False Advertising [General Business Law §§ 349, 350] Class Actions
 - [a] Gen. Bus. Law § 349
 - [b] Gen. Bus. Law § 350
 - [c] Gen. Bus. Law §§ 349, 350 Class Certification Issues
 - [7] Predominance Analysis for Breach of Fiduciary Duty Class Actions
 - [8] Predominance Analysis for Negligence Class Actions
 - [9] Predominance Analysis for Mass Tort Class Actions Involving Personal Injuries and Property Damage
 - [10] Predominance Analysis for Class Actions Challenging Governmental Operations
 - [11] Predominance Analysis for Class Actions Involving Violation of State and Federal Statutes
 - [12] Predominance Analysis for Class Actions Seeking Declaratory Judgments and Injunctive Relief
- § 901.24 Claims of Class Representative Must Be Typical of Claims of Class
- § 901.25 Class Representative and Class Counsel Must Fairly and Adequately Represent Interests of Class
- [1] Adequacy of Plaintiff Class Representative
 - [2] Adequacy of Defendant Class Representative
 - [3] Adequacy of Class Counsel
- § 901.26 Class Actions Must Be Superior Method for Adjudication of Controversy

9-5 CLASS ACTIONS ¶ 901.01[1]

¶ 901.27 Court May Consider, to Some Extent, Merits of Class Action within Context of Class Certification Motion

¶ 901.28 CPLR 901(b) Prohibits Class Actions Seeking Penalties Or Minimum Recoveries Unless Class Action Is Authorized By Statute Or Under Some Circumstances If Penalties Waived And Class Notified

HISTORICAL APPENDIX for CPLR 901

¶ 901App.01 Amendments to CPLR 901

¶ 901App.02 Legislative and Judicial Reports for CPLR 901

¶ 901App.03 Civil Practice Act Counterpart for CPLR 901

REFERENCES for CPLR 901

¶ 901Ref.01 Court Rules Relating to CPLR 901

¶ 901Ref.02 List of Essential Forms Relating to CPLR 901

¶ 901Ref.03 Federal Practice Counterpart to CPLR 901

¶ 901Ref.04 Law Review Articles Relating to CPLR 901

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§ 902. Order allowing class action. Within sixty days after the time to serve a responsive pleading has expired for all persons named as defendants in an action brought as a class action, the plaintiff shall move for an order to determine whether it is to be so maintained. An order under this section may be conditional, and may be altered or amended before the decision on the merits on the court's own motion or on motion of the parties. The action may be maintained as a class action only if the court finds that the prerequisites under section 901 have been satisfied. Among the matters which the court shall consider in determining whether the action may proceed as a class action are:

1. The interest of members of the class in individually controlling the prosecution or defense of separate actions;
2. The impracticability or inefficiency of prosecuting or defending separate actions;
3. The extent and nature of any litigation concerning the controversy already commenced by or against members of the class;
4. The desirability or undesirability of concentrating the litigation of the claim in the particular forum;
5. The difficulties likely to be encountered in the management of a class action.

SYNOPSIS

ANALYSIS of CPLR 902

- § 902.00** Procedural Context of CPLR 902: Order Allowing Class Actions
- § 902.01** Class Representative's Motion for Class Certification
- [1] Class Representative Has Burden to Move for Class Certification
 - [2] Motion for Class Certification Must Be Made Within Sixty Days but Court May Stay Requirement Pending Completion of Pre-Class Certification Discovery
 - [3] Court Must Hold Evidentiary Hearing on Class Certification Motion and Render Decision Considering Each and Every Prerequisite Addressed Therein

-141	CLASS ACTIONS	§ 902.00
[902.02	<i>Plaintiff May Seek to Voluntarily Discontinue Class Action or Strike Class Allegations and Proceed as Individual Lawsuit</i>	
[902.03	<i>Class Representatives Have Burden of Meeting All Prerequisites in CPLR 901(a)(1)-(5) and in CPLR 902(1)-(5)</i>	
[902.04	<i>Class Representatives Have Burden of Establishing that Class Action as Evidenced is Manageable</i>	
[902.05	<i>To Certify Nationwide Class Actions Court Must Have Jurisdiction over Non-Resident Class Members</i>	
[902.06	<i>Court May Deny Class Certification on Grounds of Forum Non Conveniens or Because Court Chooses to Enforce Forum Selection Clause</i>	
[902.07	<i>Court May Deny Class Certification Because of Too Many Choice of Law Issues</i>	
[902.08	<i>Court May Choose to Limit Class Size to One State</i>	
[902.09	<i>Court May Select Lead Class Representatives and Lead Class Action Counsel from Among Competing Groups</i>	
	[1] <i>Court May Select Class Representatives and Class Counsel Pursuant to Private Securities Litigation Reform Act</i>	
	[2] <i>Court May Select Lead Class Counsel Using Fee Auctions</i>	
	[3] <i>Court May Allow Class Members to Intervene to Protect Class and Supervise Class Counsel</i>	

HISTORICAL APPENDIX for CPLR 902

[902App.01	<i>Amendments to CPLR 902</i>
[902App.02	<i>Legislative and Judicial Reports for CPLR 902</i>
[902App.03	<i>Civil Practice Act Counterpart for CPLR 902</i>

REFERENCES for CPLR 902

[902Ref.01	<i>Court Rules Relating to CPLR 902</i>
[902Ref.02	<i>List of Essential Forms Relating to CPLR 902</i>
[902Ref.03	<i>Federal Practice Counterpart to CPLR 902</i>
[902Ref.04	<i>Law Review Articles Relating to CPLR 902</i>

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¶ 903. Description of class.

The order permitting a class action shall describe the class. When appropriate the court may limit the class to those members who do not request exclusion from the class within a specified time after notice.

SYNOPSIS

ANALYSIS of CPLR 903

- ¶ 903.00 Procedural Context of CPLR 903: Description of Class
- ¶ 903.01 Order Must Contain Description of Class
- ¶ 903.02 Court May Limit Class to Those Not Seeking Exclusion
- ¶ 903.03 Effects of Exclusion from Class Described

HISTORICAL APPENDIX for CPLR 903

- ¶ 903App.01 Amendments to CPLR 903
- ¶ 903App.02 Legislative and Judicial Reports for CPLR 903
- ¶ 903App.03 Civil Practice Act Counterpart for CPLR 903

REFERENCES for CPLR 903

- ¶ 903Ref.01 Court Rules Relating to CPLR 903
- ¶ 903Ref.02 List of Essential Forms Relating to CPLR 903
- ¶ 903Ref.03 Federal Practice Counterpart to CPLR 903
- ¶ 903Ref.04 Law Review Articles Relating to CPLR 903

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§ 904. Notice of class action.

(a)

In class actions brought primarily for injunctive or declaratory relief, notice of the pendency of the action need not be given to the class unless the court finds that notice is necessary to protect the interests of the represented parties and that the cost of notice will not prevent the action from going forward.

(b) In all other class actions, reasonable notice of the commencement of a class action shall be given to the class in such manner as the court directs.

(c) The content of the notice shall be subject to court approval. In determining the method by which notice is to be given, the court shall consider

I. the cost of giving notice by each method considered

II. the resources of the parties and

III. the stake of each represented member of the class, and the likelihood that significant numbers of represented members would desire to exclude themselves from the class or to appear individually, which may be determined, in the court's discretion, by sending notice to a random sample of the class.

(d)

I. Preliminary determination of expenses of notification. Unless the court orders otherwise, the plaintiff shall bear the expense of notification. The court may, if justice requires, require that the defendant bear the expense of notification, or may require each of them to bear a part of the expense in proportion to the likelihood that each will prevail upon the merits. The court may hold a preliminary hearing to determine how the costs of notice should be apportioned.

II. Final determination. Upon termination of the action by order or judgment, the court may, but shall not be required to, allow to the prevailing party the expenses of notification as taxable disbursements under article eighty-three of the Civil Practice Law and Rules.

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ANALYSIS of CPLR 904

- ¶ 904.00 Procedural Context of CPLR 904: Notice of Class Actions
- ¶ 904.01 Court Should Order That Notice of Class Certification Be Given in All Types of Class Actions if Practicable
- ¶ 904.02 Court Should Follow U.S. Supreme Court Guidelines in Ordering Notice in Class Actions Seeking Monetary Damages
- ¶ 904.03 Class Notice Should Be Sent After Court Rules on Motion Seeking Class Certification
- ¶ 904.04 Class Notice Should Contain Basic Information in Plain English
- ¶ 904.05 Class Notice May Either Permit Class Members to Opt-Out by Using Exclusion Form [Class Actions Seeking Monetary Damages] or Inform Class Members That Their Inclusion is Mandatory [Class Actions Involving Limited Fund or Seeking Declaratory or Injunctive Relief]
- ¶ 904.06 In Class Actions Seeking Monetary Damages Class Members Should Be Sent Request for Exclusion Form Along with Notice of Class Certification
- ¶ 904.07 There Are Circumstances Under Which Class Forms Should Be Sent to Class Members but Court Must Be Careful Not to Discourage Class Member Participation
- ¶ 904.08 Court May Consider Several Different Methods of Class Notice
- [1] Court May Order Class Notice to Be Sent By First Class Mail and by E-Mail over Internet
- [2] Court May Order Class Notice to Be Published in Newspapers, on Internet Web Site and Through Other Media
- [3] Court May Order Corrective Action to Be Taken to Reverse Effects of Misleading Notices
- 904.09 Court May Order Plaintiff and/or Defendants to Pay Costs of Notice to Class

HISTORICAL APPENDIX for CPLR 904

- 904App.01 Amendments to CPLR 904
- 904App.02 Legislative and Judicial Reports for CPLR 904
- 904App.03 Civil Practice Act Counterpart for CPLR 904

REFERENCES for CPLR 904

- 904Ref.01 Court Rules Relating to CPLR 904
- 904Ref.02 List of Essential Forms Relating to CPLR 904
- 904Ref.03 Federal Practice Counterpart to CPLR 904
- 904Ref.04 Law Review Articles Relating to CPLR 904

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¶ 905.00

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The judgment in an action maintained as a class action, whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class.

SYNOPSIS**ANALYSIS of CPLR 905****¶ 905.00** Procedural Context of CPLR 905: Judgment**HISTORICAL APPENDIX for CPLR 905**

- ¶ 905App.01** Amendments to CPLR 905
- ¶ 905App.02** Legislative and Judicial Reports for CPLR 905
- ¶ 905App.03** Civil Practice Act Counterpart for CPLR 905

REFERENCES for CPLR 905

- ¶ 905Ref.01** Court Rules Relating to CPLR 905
- ¶ 905Ref.02** List of Essential Forms Relating to CPLR 905
- ¶ 905Ref.03** Federal Practice Counterpart to CPLR 905
- ¶ 905Ref.04** Law Review Articles Relating to CPLR 905

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¶ 906. Actions conducted partially as class actions.

When appropriate,

1. an action may be brought or maintained as a class action with respect to particular issues, or
2. a class may be divided into subclasses and each subclass treated as a class. The provisions of this article shall then be construed and applied accordingly.

SYNOPSIS

ANALYSIS of CPLR 906

- ¶ 906.00** Procedural Context of CPLR 906: Partial Class Actions
- ¶ 906.01** Court May Confine Class Actions to Particular Issues
- ¶ 906.02** Court May Create Subclasses to Manage Different Issues That May Otherwise Create Conflicts Among Class Members
- ¶ 906.03** Provisions of CPLR Article 9 Generally Apply to Partial Class Actions

HISTORICAL APPENDIX for CPLR 906

- ¶ 906App.01** Amendments to CPLR 906
- ¶ 906App.02** Legislative and Judicial Reports for CPLR 906
- ¶ 906App.03** Civil Practice Act Counterpart for CPLR 906

REFERENCES for CPLR 906

- ¶ 906Ref.01** Court Rules Relating to CPLR 906
- ¶ 906Ref.02** List of Essential Forms Relating to CPLR 906
- ¶ 906Ref.03** Federal Practice Counterpart to CPLR 906
- ¶ 906Ref.04** Law Review Articles Relating to CPLR 906

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R 907. Orders in the conduct of class actions.

In the conduct of class actions the court may make appropriate orders:

1. determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;
2. requiring, for the protection of the members of the class, or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, or to appear and present claims or defenses, or otherwise to come into the action;
3. imposing conditions on the representative parties or on intervenors;
4. requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly;
5. directing that a money judgment favorable to the class be paid either in one sum, whether forthwith or within such period as the court may fix, or in such installments as the court may specify;
6. dealing with similar procedural matters. The orders may be altered or amended as may be desirable from time to time.

SYNOPSIS

ANALYSIS of CPLR 907

§ 907.00	Procedural Context of CPLR 907: Orders in Conduct of Action
§ 907.01	Discovery and Trial
§ 907.02	Post-Class Certification Discovery by Plaintiffs
§ 907.03	Post-Class Certification Discovery by Defendants
§ 907.04	Class Action Trial Mechanics
§ 907.05	Bifurcation and Subclassing

§ 907.00	NEW YORK CIVIL PRACTICE: CPLR	9-202
§ 907.06	Representative Proof	
§ 907.07	Statistical Sampling in Proving Damages	
§ 907.08	Using Class Members as Witnesses	
§ 907.09	Court May Rely upon Inferences and Circumstantial Evidence	
§ 907.10	Court May Order Notice to Class During Course of Proceedings	
§ 907.11	Court May Impose Appropriate Conditions on Representative Parties or Interveners	
§ 907.12	Court May Permit Amendment of Pleadings to Eliminate Allegations as to Representation of Absent Parties	
§ 907.13	Court May Make Orders Regulating Payment of Money Judgments	
§ 907.14	Court May Make Other Orders as Appropriate	

HISTORICAL APPENDIX for CPLR 907

§ 907App.01	Amendments to CPLR 907
§ 907App.02	Legislative and Judicial Reports for CPLR 907
§ 907App.03	Civil Practice Act Counterpart for CPLR 907

REFERENCES for CPLR 907

§ 907Ref.01	Court Rules Relating to CPLR 907
§ 907Ref.02	List of Essential Forms Relating to CPLR 907
§ 907Ref.03	Federal Practice Counterpart to CPLR 907
§ 907Ref.04	Law Review Articles Relating to CPLR 907

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R 908. Dismissal, discontinuance or compromise.

A class action shall not be dismissed, discontinued, or compromised without the approval of the court. Notice of the proposed dismissal, discontinuance, or compromise shall be given to all members of the class in such manner as the court directs.

SYNOPSIS

ANALYSIS of CPLR 908

- ¶ 908.00 Procedural Content of CPLR 908: Dismissal, Discontinuance or Compromise
- ¶ 908.01 Settlements and Voluntary Discontinuances
- ¶ 908.02 Approval of Court
- ¶ 908.03 Court as Guardian of Class
- ¶ 908.04 Settlement Procedures
- ¶ 908.05 Stipulation of Settlement
- ¶ 908.06 Non-Cash Settlements: Products, Coupons, and Certificates
- ¶ 908.07 Cy Pres Remedies: Settlements and Disposing of Unclaimed Settlement Funds
- ¶ 908.08 Class Representative Incentive Awards
- ¶ 908.09 Preliminary Court Approval
- ¶ 908.10 Settlement Classes Require Enhanced Scrutiny
- ¶ 908.11 Notice of Settlement
- ¶ 908.12 Methods of Sending Settlement Notice
- ¶ 908.13 Settlement Fairness Hearing
- ¶ 908.14 Objections to Settlement
 - [1] Intervention by Objectors
 - [2] Discovery by Objectors
 - [3] Procedural Objections
 - [4] Substantive Objections
 - [5] Objectors' Attorneys' Fees and Costs
- ¶ 908.15 Factors in Evaluating Proposed Settlements

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§ 908.01

HISTORICAL APPENDIX for CPLR 908

- § 908App.01 Amendments to CPLR 908
- § 908App.02 Legislative and Judicial Reports for CPLR 908
- § 908App.03 Civil Practice Act Counterpart for CPLR 908

REFERENCES for CPLR 908

- § 908Ref.01 Court Rules Relating to CPLR 908
- § 908Ref.02 List of Essential Forms Relating to CPLR 908
- § 908Ref.03 Federal Practice Counterpart to CPLR 908
- § 908Ref.04 Law Review Articles Relating to CPLR 908

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R 909. Attorneys' fees.

If a judgment in an action maintained as a class action is rendered in favor of the class, the court in its discretion may award attorneys' fees to the representatives of the class based on the reasonable value of legal services rendered and if justice requires, allow recovery of the amount awarded from the opponent of the class.

SYNOPSIS

ANALYSIS of CPLR 909

- ¶ 909.00 Procedural Content of CPLR 909: Attorneys' Fees
- ¶ 909.01 Award of Attorney's Fees Authorized
- ¶ 909.02 All Prerequisites Must Be Met Before Attorney's Fees May Be Awarded
- ¶ 909.03 Award of Attorneys' Fees May Be Recovered from Opponents of Class
- ¶ 909.04 Court May Consider Methods for Awarding Fees and Costs
- ¶ 909.05 Fees Based on Percentage Method
 - [1] Percentage Fees in Coupon/Certificate Settlements
 - [2] Interim Fee Awards
- ¶ 909.06 Fees Based upon Lodestar Method
 - [1] Time and Costs Records
 - [2] Establishing Beneficial Hours and Expenses
 - [3] Establishing Hourly Rate
 - [4] Lodestar Computation
 - [5] Enhancing Lodestar
 - [6] Fee Disputes
- ¶ 909.07 Final Fees and Costs Application

HISTORICAL APPENDIX for CPLR 909

- ¶ 909App.01 Amendments to CPLR 909
- ¶ 909App.02 Legislative and Judicial Reports for CPLR 909
- ¶ 909App.03 Civil Practice Act Counterpart for CPLR 909

¶ 909.01 **NEW YORK CIVIL PRACTICE: CPLR** **9-266**

REFERENCES for CPLR 909

- ¶ 909a.01** **Court Rules Relating to CPLR 909**
- ¶ 909a.02** **List of Essential Forms Relating to CPLR 909**
- ¶ 909a.03** **Federal Practice Counterpart to CPLR 909**
- ¶ 909a.04** **Law Review Articles Relating to CPLR 909**