

### 3.41 Proof of proceedings before justice of the peace (CPLR 4541).

**(a) Of the state.** A transcript from the docket-book of a justice of the peace of the state, subscribed by him [or her], and authenticated by a certificate signed by the clerk of the county in which the justice resides, with the county seal affixed, to the effect that the person subscribing the transcript is a justice of the peace of that county, is prima facie evidence of any matter stated in the transcript which is required by law to be entered by the justice in his [or her] docket-book.

**(b) Of another state.** A transcript from the docket-book of a justice of the peace of another state, of his [or her] minutes of the proceedings in a cause, of a judgment rendered by him [or her], of an execution issued thereon or of the return of an execution, when subscribed by him [or her], and authenticated as prescribed in this subdivision is prima facie evidence of his [or her] jurisdiction in the cause and of the matters shown by the transcript. The transcript shall be authenticated by a certificate of the justice to the effect that it is in all respects correct and that he [or she] had jurisdiction of the cause; and also by a certificate of the clerk or prothonotary of the county in which the justice resides, with his [or her] official seal affixed, to the effect that the person subscribing the certificate attached to the transcript is a justice of the peace of that county.

#### Note

This rule recites verbatim CPLR 4541.

**Subdivision (a)** allows a “transcript” from the docket-book of a New York justice of the peace (presently referred to as a Town Justice or Village Justice), when certified as required by the statute, to be prima facie evidence of the contents of the transcript that are “required by law to be entered by the justice in his [or her] docket-book.”

**Subdivision (b)** addresses a transcript from the docket-book of a justice of the peace of another state. When the specified procedure is followed, that transcript is prima facie evidence of both the “justice’s ‘jurisdiction in the cause’

and of ‘the matters shown by the transcript.’ Under subdivision (a), on the other hand, the transcript from the docket book of a New York justice of the peace is not per se evidence of the justice’s jurisdiction and is prima facie evidence only of the matters stated in the transcript that are ‘required by law to be entered by the justice in his [or her] docket-book’ ” (Vincent C. Alexander, Practice Commentaries, McKinney’s Cons Laws of NY, Book 7B, CPLR 4541 at 778-779 [2007 ed]). The jurisdiction of a New York justice of the peace, however, is subject to judicial notice. (*Id.*)

While the properly certified transcript is admissible as an exception to the rule excluding hearsay and is “prima facie evidence,” an opposing party may introduce evidence to rebut the accuracy of the transcript or otherwise to affect the weight of the evidence. (*Cf. Berman v Golden*, 131 AD2d 416, 417 [2d Dept 1987] [the terminology “prima facie evidence” in CPLR 4522 (ancient filed maps, surveys and records affecting real property) created a rebuttable presumption of the accuracy of the documents]; *see* Vincent C. Alexander, Practice Commentaries, McKinney’s Cons Laws of NY, Book 7B, CPLR C4518:9.)