

NEW YORK STATE ACADEMY OF TRIAL LAWYERS

David Nocenti, Esq.,
Counsel, Office of Court Administration
25 Beaver Street, 10th Fl
New York, New York, 10004
Via email: rulecomments@nycourts.gov

Dear Mr. Nocenti,

On behalf of the New York State Academy of Trial Lawyers, please accept this response to the request for comment with respect to a proposed amendment to 22 NYCRR § 202.72.

The Academy of Trial Lawyers is a 5,600+ member statewide bar association, committed to protecting, preserving, and enhancing the civil justice system.

We applaud any effort by the courts to move Child Victims Act cases (and all cases) through the court system in a more expeditious manner. We wholeheartedly agree that assigning more judges to these cases will help ease the backlogs which have developed. However, the proposed rule, as drafted, would appear to permit random assignment of these very sensitive cases. Such random assignment would contravene the provisions of Judiciary Law 219-c, which mandated specialized training for judges handling cases arising under the Child Victims Act.

For decades, New York State has been at the forefront of the movement towards specialized parts, in both the criminal and the civil courts. Specialized parts allow judges to become more familiar with the legal and factual issues presented, and thus handle cases in a more efficient fashion. For years, many counties have had dedicated parts for medical malpractice cases, municipal liability matters, etc. Thus, in directing greater judicial resources to address the backlogs in CVA cases, we urge the courts to utilize specialized parts, with dedicated judges, rather than a random assignment system. This will enable compliance with Judiciary Law 219-c, while permitting a designated group of judges to focus on the issues frequently presented in these cases.

We also note that, as currently written, 22 NYCRR § 202.72 mandates that “(t)here shall be a *dedicated part(s)* of Supreme Court in each Judicial District which shall be assigned all actions revived pursuant to CPLR 214-g.” However, there is currently only one dedicated judge for all revived CVA cases in the 9th and 10th Judicial Districts, and only two dedicated CVA judges for all revived cases in New York City, despite the fact that there are 5 judicial districts in New York City and approximately half the cases filed under the CVA were filed in New York City. Thus, although under the rule there should be at least seven dedicated judges in these districts, currently there are only three.

Further, the current rule mandates that “(t)here shall be a *dedicated part(s)*.” This clearly contemplates more than one dedicated judge per judicial district. While we agree that greater judicial resources are needed, we respectfully request that specialized, dedicated parts be utilized to address these matters for the reasons stated hereinabove.

Lastly, we note that the scourge of child sex abuse has not been fully eradicated from our society, and CVA actions seeking redress for more recent abuse continue to be filed under CPLR 208(b). Under Judiciary law 219-c, these cases should also be assigned to dedicated judges in specialized parts, yet in many if not most cases they have not been so assigned.

Under the circumstances we respectfully request that 22 NYCRR § 202.72 be amended as follows:

1. There shall be a dedicated part or parts of Supreme Court in for each Judicial District which shall be assigned all actions brought under the Child Victims Act, whether revived pursuant to CPLR 214-g or filed pursuant to CPLR 208(b). The Office of Court Administration shall assign a sufficient number of judges to these parts so as to ensure prompt resolution of these matters.

We thank you for your time and attention to this matter.

Best,

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Lambros Lambrou
Board President, NYS Academy of Trial Lawyers



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To: David Nocenti, Esq., Office of Court Administration
(by email: rulecomments@nycourts.gov)

From: Cynthia S. LaFave, Esq., LaFave, Wein & Frament, PLLC

Date: March 13, 2024

RE: Comments on Amendment to CVA rules regarding Judges

This is being submitted as a comment to the proposed amendment to 22 NYCRR §202.72. This amendment would give the Chief Administrative Judge discretion to grant exemptions from the current mandate that all CVA cases be assigned to specific CVA parts, which will allow CVA cases pending in the Regional CVA Parts to be returned to individual courts as appropriate.

It is our opinion that the passage of the proposed amendment would cause significant delays in the handling of the CVA case. We also believe that it would cause there to be inconsistent handling and determinations in different areas of the Districts.

As a bit of background I have been practicing civil tort law since my admission to the bar in 1982. Our firm had over 450 CVA cases when the window opened.

Having the cases assigned to a particular Judge in each of the judicial districts in CVA cases has been and will continue to be extremely helpful. Having these specific parts has definitely served the administration of Justice. I will delineate the reasons why:

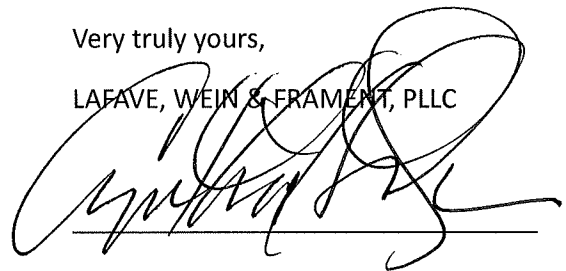
- The cases under the CVA involve persons who were sexually abused as children. These cases require not only counsel but also the Judges to understand the impact and long-term changes that have occurred to the survivors as a result of the sexual abuse they suffered as children.
- The cases under the CVA also involve specialized discovery and this requires specialized knowledge by the Judges handling them.
- Judges who handle these cases “en masse” have been exposed to enough of these cases to understand trauma informed interaction. Though there are times when this interaction is with survivors, this applies even if this interaction is only through an attorney.

- The Judges who handle multiple CVA cases necessarily understand the pertinent insurance issues that are inherent in these cases.
- The Judges who handle these cases many times will combine for discovery multiple cases which involve either a. the perpetrator and/or b. the entity defendant. This is truly a time and effort savings for all involved, the defense lawyers, the plaintiff's lawyers, the defendants, the plaintiffs and the court system. This streamlines not only discovery but also depositions, and moves these cases far more efficiently than they would otherwise be moved. If these cases were broken down by county, there would be multiple Judges and this system would no longer work.
- Having one judge oversee all the cases about one defendant entity or institution allows the Judge to have specialized knowledge and understanding of the entity or institution and this allows them to move these cases with greater efficiency and acumen.
- Having these cases assigned to one particular Judge in each District allows the Judges to have knowledge of the new and developing case law regarding these matters—which in turn creates a more efficient and informed judicial process and consistent decisions from the bench.
- Having these cases assigned by District to a Judge assigned and not by county does not affect the ultimate trial since the trials are going back to the county of venue.

We very much appreciate the opportunity to comment on this proposed change. Thank you.

Very truly yours,

LAFAVE, WEIN & FRAMENT, PLLC

A handwritten signature in black ink, appearing to read 'Cynthia S. LaFave', is written over a horizontal line. The signature is fluid and cursive.

Cynthia S. LaFave, Esq.

CSL/me