

New York State Unified Courts System Public Access Law Libraries Traverse Hearings

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This handout describes legal research materials available on-line and in print in New York Court Public Access Law Libraries.

The information provided should be considered a starting point in your research and should not be interpreted as a comprehensive review of the subject or issue in question

The trial of an issue of fact on a jurisdictional motion, notably one raising an issue about whether or not the defendant was properly served with process—perhaps the most prolific example of this genre—is commonly called a “traverse hearing” in New York practice, some parts of the state virtually monopolizing the word for that use. The traverse hearing is ordered, however, only when there is a genuine dispute about service, one side swearing unequivocally to one version and the other, just as unequivocally, to an inconsistent version of the facts. A hedgy or coy affidavit by the defendant, for example, perhaps saying only that he doesn't “remember” being served, won't do to dispute service,³ which will simply be upheld. § 271.Immediate Trial of Fact Issue Under CPLR 3211, Siegel, N.Y. Prac. § 271 (6th ed.)

Statutes and Court Rules

- CPLR art 3 and CPLR 306
- RPAPL art 7 Summary Proceeding to Recover Possession of Real Property
- General Business Law §89-cc Process server Business Records
- New York Administrative Code, Tit 20, ch 2 Licenses, Subchapter 23 Process Servers
- 22 NYCRR 208.29 Traverse Hearings

New York City

- New York City Dept of Consumer Affairs page [Information for Process Server Industry](#).

Digests and Case Finders

Westlaw

- West Key Digest topic 313 Process:
- West Key topic 313 Process k160 Traverse of Return
- West Key topic 313 Process 149 Evidence as to service > Weight and sufficiency
- West Key topic 319 Process 145 Evidence as to service > Presumptions and burden of proof

LexisAdvance

- Run phrase “traverse hearing’ through CPLR art 3 to pick cases not mentioned in McKinney’s
- New York Civil Motion Citator Heading “Traverse Hearing” in Ch XII Service

Commentary and Analysis

E-books

- Michael H. Barr, Burton N. Lipshie and Sharon Stern Gerstman, 1 New York Civil Practice Before Trial, James Publications § 9:623 Amending Defects and § 36:701 Traverse Hearing – brief paragraph

LexisAdvance

- 1 LexisNexis AnswerGuide New York Civil Litigation § 2.11 Effecting Service by Leave (Delivery) and Mail
- Weinstein, Korn and Miller, New York Civil Practice CPLR, Ch 306 Proof of service
- Weinstein, Korn & Miller, CPLR Manual § 3.15 Proof service

New York Law Journal

- Bruce J. Bergman, [The Unusual Role of Process Service in Foreclosure Cases](#), NYLJ, Feb 16, 2011 at 5, col 2.
- Anthony J. Centone, [Service of Process on Corporations and Other Limited Liability Companies](#), NYLJ, March 16, 2010 at 4, col 1.

Westlaw:

- Carmody-Wait 2d has no index entry for traverse hearing, but the phrase “Traverse Hearing” appears throughout the text and in Chapter 24, Commencement of Actions; Summons and Service of Process §§ 24:244-250 .
- Practice Commentaries, NY McKinney’s Cons Laws of NY, CPLR 306
- New York Jurisprudence, Process and Paper: Proof of Service; Summons and Notice of Proceedings §123 et seq
- Gerald Lebovits, Drafting New York Civil-Litigation Documents: Part XXXIX-Motions to Vacate A Default Judgment Continued, NY St BJ, February 2015, at 64, 53
- Gerald Lebovits, Drafting New York -Litigation Documents: Part XVIII—Motions to Dismiss Continued, 84 NY St BJ 64 (Sept 2012)
- Siegel’s New York Practice, ch 4 Personal Jurisdiction; ch 11 Accelerated Judgment
- Westlaw Practical Law Affidavit of Service of Process (NY)
- Westlaw Practical Law Affirmation of Service of Process (NY)

- Westlaw Practical Law Serving Case-Initiating Papers in New York State Supreme Court: Proving Service

Landlord and Tenant – Commentary and Analysis

Westlaw

- New York Practice Series – Landlord and Tenant Practice in New York. See index entry Traverse Hearing and also run phrase through full-text to retrieve mentions of Traverse Hearings..
- Residential Landlord Tenant L in NY § 14:23 Traverse hearings;
- Residential Landlord Tenant L in NY §§7:157 et seq Jurisdiction, Venue, and Forum in Summary Proceedings
- Residential Landlord Tenant L in NY § 10:43 et seq Defenses to Summary Proceedings
- Gerald Lebovits & Matthias W. Li, *Service of Process and **Traverse Hearings** in Land-lord-Tenant Actions and Proceedings*, 34 N.Y. Real Prop. L.J. 32, 32 (Spring 2006).
- Hon. Gerald Lebovits, Michael B. Terk, *A Guide to New York State Commercial Landlord-Tenant Law and Procedure-Part II*, NY St BJ, March/April 2015, at 34, 36

LexisAdvance

- 4-31 NY Practice Guide: Real Estate § 31.08 (2017) [Court Proceedings](#)
- 12 Warren's Weed New York Real Property § 129.147 (2018) [Holding Traverse Hearings](#)

Important Disclosures:

Legal Advice

NY State Court System staff are pleased to provide you with basic legal information of relevance to New York State courts, caselaw, statutory and regulatory materials from standard legal reference sources. Our court employees, however, may not provide legal advice, interpret the law or assist with the processing of specific motions or cases.

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