

MARSH

law firm pllc

Box 4668 #65135

New York, New York 10163-4668

212-372-3030 • jamesmarsh@marsh.law

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By email – rulecomments@nycourts.gov

John W. McConnell, Esq.,
Counsel Office of Court Administration
25 Beaver Street, 11th Fl
New York, New York 10004

**Re: Comments on Proposed Rules to Facilitate the Prompt Disposition of
Matters Revived Under the Child Victims Act of 2019**

Dear Mr. McConnell:

The Marsh Law Firm PLLC, along with the law firm of Pfau Cochran Vertetis Amala PLLC, together represent hundreds of clients throughout New York state in actions revived pursuant to CPLR 214-g.

We hereby submit the following comments and suggestions on the Administrative Board of the Courts' Proposed Rules to Facilitate the Timely Adjudication of Actions Revived under the Child Victims Act (L. 2019, c. 11), published on May 10, 2019.

The Proposed Rules were developed to supplement and support the Child Victims Act's ("CVA") one-year one-time window, passed to allow victims and survivors of historic childhood sexual abuse to pursue their claims regardless of the age of the victim or survivor.

Since many of the complainants in Revived Actions under the CVA are rapidly advancing in age and declining in health, the Proposed Rules should seek to expedite as practicable and in keeping with the strictures of the CPLR, such Revived Actions in the interest of justice and fairness to all parties.

We support the Proposed Rules and suggest the following additional rules to Section 202 which will promote the New York legislature's clear mandate that Revived Actions be timely adjudicated. Districts are encouraged to promulgate standing orders to require: (i) early disclosures and (ii) alternative dispute resolution process, as follows.

Early Disclosures

- A. Parties shall, without awaiting a discovery request, disclose to the opposing party or parties before the initial preliminary conference the following:
- (1) Party's statement in accordance with CPLR 3101(e)
 - (2) Contents of insurance agreement in accordance with CPLR 3101(f)
 - (3) Accident reports in accordance with CPLR 3101(g)
 - (4) Films, photographs, video tapes or audio tapes, including transcripts or memoranda thereof in accordance with CPLR 3101(i)
 - (5) The names of all witnesses known by each party including witnesses who were participants in the event, any eyewitness to it, witnesses with knowledge of any of the facts connected with it, and witnesses who can say whether the defendant had "notice" of a condition that caused the plaintiff to be harmed in an action revived pursuant to CPLR 214-g

Alternative Dispute Resolution

- A. Each Judicial District shall establish or utilize an already established Alternative Dispute Resolution process to facilitate the early resolution of Revived Actions, such as the ADR Program for the Commercial Division in New York County and the Non-Division Pilot Project.
- B. Neutrals, like judicial and related personnel, shall receive training in subjects related to sexual assault and the sexual abuse of minors pursuant to a curriculum and format approved by the Office of Court Administration.

Respectfully Submitted,

Marsh Law Firm PLLC
James R. Marsh
Jennifer Freeman
Robert Y. Lewis

Pfau Cochran Vertetis Amala PLLC
Michael T. Pfau
Jason P. Amala