

## Memorandum Urging Approval by the Governor

### COMMITTEE ON CIVIL PRACTICE LAW AND RULES

CPLR #8-GOV

May 27, 2014

S. 7075  
A. 8972

By: Senator Bonacic  
By: M. of A. Hennessey  
Senate Committee: Judiciary  
Assembly Committee: Judiciary  
Effective Date: Immediately

**AN ACT** to amend the civil practice law and rules, in relation to furnishing motion papers to the court.

**LAW & SECTION REFERRED TO:** CPLR 2214 (c)

#### **THE COMMITTEE ON CIVIL PRACTICE LAW AND RULES** **URGES APPROVAL BY THE GOVERNOR**

This bill was introduced at the request of the Chief Administrative Judge upon the recommendation of the Office of Court Administration's Advisory Committee on Civil Practice. It is a response to an opinion of the Appellate Division, Second Department, in *Biscone v JetBlue Airways Corp.* (103 AD3d 158 [2d Dept 2012]) in which the court held that on a motion for renewal or reargument, CPLR 2214(c) requires that the movant (1) must attach as exhibits all the papers submitted on the prior motion and (2), in an electronically filed case, cannot incorporate those prior papers simply by reference to their numbers on the e-filing system. The failure to attach copies, says the opinion in *Biscone*, makes the motion for reargument "defective" (*Biscone v JetBlue Airways Corp.*, 103 AD3d at 178-179) and presumably therefore, subject to dismissal.

The measure would amend subdivision (c) of CPLR 2214 to partially overrule *Biscone*, except when court rules provide otherwise, by permitting a movant to incorporate previously e-filed documents as exhibits simply by reference to their docket numbers on the e-filing system. It is beneficial because it eliminates the need to attach duplicate copies of documents to motion papers when those documents are readily available on the e-filing docket and it insures that reference is always to the original, filed documents rather than to possibly variant versions from the movant's files.

For these reasons, the New York State Bar Association's Committee on Civil Practice Law and Rules **urges approval by the Governor.**

The Person Who Prepared the Memorandum: James E. Pelzer, Esq.

Chair of the Committee: Robert P. Knapp, III, Esq.