

Staff Memorandum

EXECUTIVE COMMITTEE Agenda Item #13(c)

<u>REQUESTED ACTION</u>: Approval of an affirmative legislative proposal from the Committee on Civil Practice Law and Rules to amend New York Civil Practice Law and Rules §§3216 (b)(3) and 3402.

Attached are proposed legislative language and a supporting memorandum from the Committee on Civil Practice Law and Rules. The committee proposes to amend New York CPLR §§3216 (b)(3) and 3402.

The amendment to §3216 (b)(3) would require that a judge dismissing a plaintiff's case detail the specific conduct constituting plaintiff's neglect to prosecute, and ensure that a CPLR 3216 dismissal fall upon a deserving plaintiff, and would not disadvantage a compliant plaintiff by forcing him/her to forego necessary disclosure.

The amendment to §3402 would ensure that the note of issue serves its original, primary function and provides three alternatives methods for the note of issue and certificate of readiness to be filed.

As of this date, no comments have been received in regard to this proposal.

The Report will be presented by Robert P. Knapp, III, chair of the Committee on CPLR.