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**Re: Loan Agreements Governed Under NY Law**

Just before Christmas, New York's highest court ruled that a contract selecting New York as the governing law for the interpretation of the contract should be construed under New York law *even if* the application of the conflicts of laws rules in New York would result in the laws of another country being applied to interpret the contract. See the decision at: <http://www.nycourts.gov/ctapps/Decisions/2012/Dec12/191opn12.pdf>

Traditionally governing law clauses in New York loan agreements and other contracts contained language to the effect that the New York conflicts of laws rules should be ignored for the purposes of determining whether a court should follow the stated wishes of the parties and apply New York law to the interpretation of the contract. New York law states that a court should enforce a contractual provision that selects New York as the governing law even if the contract itself has no connection to New York. See NY General Obligations Law Section 5-1401.

In the case before the Court of Appeals, the drafters of a contract had selected New York law to govern their contract but left out the magic words to ignore New York's conflicts of laws rules. One party to the contract sued to argue that other laws should govern the interpretation of the agreement. In what seems to be perfectly obvious and sensible now that a top court has stated as much, the Court said: "Express contract language excluding New York's conflict-of-laws principles is not necessary."

**Net Result**

Up-to-date drafters of loan agreements will no longer exclude the application of New York's conflicts of laws rules in their governing law provisions.

R.C.A.