

## TITLE VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

### **Rule 63.** Inability of a Judge to Proceed

If a trial or hearing has been commenced and the judge is unable to proceed, any other judge may proceed with it upon certifying familiarity with the record and determining that the proceedings in the action may be completed without prejudice to the parties. In a hearing or trial without a jury, the successor judge shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

**PRACTICE COMMENT:** Pursuant to the renumbering of the Rules, the former Rule 77(e)(5) now will be identified as Rule 63, and the former Rule 63 now will be identified as Rule 86.2. New Rule 63 conforms to Rule 63 of the Federal Rules of Civil Procedure.

(As amended July 28, 1988, eff. Nov. 1, 1988; Sept. 30, 2003, eff. Jan. 1, 2004.)