

5079

2013-2014 Regular Sessions

I N S E N A T E

May 8, 2013

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the time of disclosure of expert witness information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 1 of subdivision (d) of section 3101 of the civil
2 practice law and rules is amended by adding two new subparagraphs (v)
3 and (vi) to read as follows:
4 (V) UNLESS OTHERWISE PROVIDED BY A RULE OF THE CHIEF ADMINISTRATOR OF
5 THE COURTS OR BY ORDER OF THE COURT, DISCLOSURE OF EXPERT INFORMATION
6 SHALL BE MADE AS FOLLOWS: THE PARTY WHO HAS THE BURDEN OF PROOF ON A
7 CLAIM, CAUSE OF ACTION, DAMAGE OR DEFENSE SHALL SERVE ITS RESPONSE TO AN
8 EXPERT DEMAND SERVED PURSUANT TO THIS SUBDIVISION AT LEAST SIXTY DAYS
9 BEFORE THE DATE ON WHICH THE TRIAL IS SCHEDULED TO COMMENCE; WITHIN
10 THIRTY DAYS AFTER SERVICE OF SUCH RESPONSE, ANY OPPOSING PARTY SHALL
11 SERVE ITS ANSWERING RESPONSE PURSUANT TO THIS SUBDIVISION; WITHIN
12 FIFTEEN DAYS AFTER SERVICE OF SUCH RESPONSE, ANY PARTY MAY SERVE AN
13 AMENDED OR SUPPLEMENTAL RESPONSE LIMITED TO ISSUES RAISED IN THE ANSWER-
14 ING RESPONSE. IF THE TRIAL IS ADJOURNED, THE DEADLINES IN THIS SUBPARA-
15 GRAPH SHALL SHIFT ACCORDINGLY. UNLESS THE COURT ORDERS OTHERWISE, A
16 PARTY WHO FAILS TO COMPLY WITH THIS SUBPARAGRAPH SHALL BE PRECLUDED FROM
17 OFFERING THE TESTIMONY AND OPINIONS OF THE EXPERT FOR WHOM A TIMELY
18 RESPONSE HAS NOT BEEN GIVEN.
19 (VI) SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL NOT APPLY TO A TREATING
20 PHYSICIAN OR OTHER TREATING HEALTH CARE PROVIDER FOR WHOSE RECORDS A
21 PATIENT AUTHORIZATION IS GIVEN TO THE OPPOSING PARTY.
22 S 2. This act shall take effect immediately, and shall apply to all
23 rules or orders requiring the service of expert responses issued prior
24 to, on or after such effective date.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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