

# STATE OF NEW YORK

8071--A

2025-2026 Regular Sessions

## IN SENATE

May 15, 2025

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to enacting the "avoiding vexatious overuse of impleading to delay (AVOID) act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "avoiding  
2 vexatious overuse of impleading to delay (AVOID) act".

3 § 2. Section 1007 of the civil practice law and rules, as amended by  
4 chapter 216 of the laws of 1992, is amended to read as follows:

5 § 1007. When third-party practice allowed. (a) After the service of  
6 ~~[his]~~ a defendant's answer, ~~[a]~~ the defendant may proceed against a  
7 person or legal entity not a party who is or may be liable to that  
8 defendant for all or part of the plaintiff's claim against that defend-  
9 ant, by filing pursuant to section three hundred four of this chapter a  
10 third-party summons and complaint with the clerk of the court in the  
11 county in which the main action is pending, for which a separate index  
12 number shall not be issued but a separate index number fee shall be  
13 collected. The third-party summons and complaint and all prior pleadings  
14 served in the action shall be served upon such person or legal entity  
15 within ~~[one hundred]~~ twenty days of the filing. A defendant serving a  
16 third-party complaint shall be styled a third-party plaintiff and the  
17 person or legal entity so served shall be styled a third-party defend-  
18 ant. The defendant shall also serve a copy of such third-party complaint  
19 upon the plaintiff's attorney simultaneously upon issuance for service  
20 of the third-party complaint on the third-party defendant.

21 (b) 1. A defendant shall proceed with the filing and serving of a  
22 third-party summons and complaint against a person or legal entity who  
23 is or may be liable to that defendant for all or part of the plaintiff's  
24 claim against that defendant within sixty days after serving an answer  
25 upon the plaintiff in the event that such liability arises from a

EXPLANATION--Matter in italics (underscoring) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 contractual relationship between the defendant and such person or enti-  
2 ty, or otherwise within sixty days of becoming aware that such person is  
3 or may be liable to the defendant for all or part of a plaintiff's  
4 claim.

5 2. A third-party defendant who proceeds with the filing of its own  
6 third-party summons and complaint, becoming in effect a second third-  
7 party plaintiff, shall proceed with the filing and serving of such  
8 summons and complaint against a second third-party defendant, within  
9 forty-five days after serving an answer.

10 3. A second third-party defendant who then proceeds with the filing of  
11 its own third-party summons and complaint, becoming in effect a third  
12 third-party plaintiff, shall proceed with the filing and serving of such  
13 summons and complaint against a third third-party defendant within thir-  
14 ty days after serving an answer.

15 4. Any subsequent third-party defendant, who proceeds with the filing  
16 of its own third-party summons and complaint, becoming in effect an  
17 additional third-party plaintiff, shall proceed with the filing of such  
18 summons and complaint against an additional third-party defendant within  
19 twenty days after serving an answer.

20 5. There shall be no extensions of the time periods set forth in this  
21 subdivision longer than thirty days without an order of the court,  
22 provided that a defendant or third-party defendant may not proceed with  
23 the filing and serving a third-party summons and complaint twelve months  
24 after having filed an answer in the action without written consent of  
25 both the plaintiff and the court.

26 (c) Notwithstanding subdivision (b) of this section, a defendant or  
27 third-party defendant may not proceed with the filing of a third-party  
28 summons and complaint after the filing of a note of issue. An action  
29 filed in violation of this subdivision shall be severed or dismissed  
30 without prejudice.

31 (d) The time periods set forth in subdivisions (b) and (c) of this  
32 section shall not apply when a defendant or third-party defendant seeks  
33 to file and proceed with a third-party summons and complaint against an  
34 employer of the plaintiff in the event that either: 1. the defendant or  
35 third-party defendant is seeking contribution or indemnification for a  
36 grave injury as such term is defined in section eleven of the workers'  
37 compensation law, or 2. the identity of such employer had not been known  
38 to the defendant or third-party defendant or otherwise identified until  
39 the such time periods have expired. In either instance, the defendant or  
40 third-party defendant shall proceed with the filing and serving of a  
41 summons and complaint within one hundred twenty days after the later of  
42 either event. An action in violation of this subdivision shall not be  
43 allowed to proceed without written consent of both the plaintiff and the  
44 court.

45 (e) In the event a third-party action is severed from the initial  
46 action, and a third-party plaintiff proceeds to initiate a new action by  
47 the filing of a summons and complaint against a severed third-party  
48 defendant, any motion to consolidate such actions shall not be permit-  
49 ted.

50 § 3. This act shall take effect on the one hundred twentieth day after  
51 it shall have become a law and shall apply to cases pending on or after  
52 such date; provided, however, this act shall not apply to any third-par-  
53 ty summons and complaint filed and served prior to the effective date of  
54 this act.