

11196

I N   A S S E M B L Y

May 25, 2010

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Introduced by M. of A. D. WEPRIN -- read once and referred to the  
Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to bills  
as prima facie proof of damages

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

1     Section 1. Rule 4533-a of the civil practice law and rules, as amended  
2     by chapter 249 of the laws of 1988, is amended to read as follows:  
3     Rule 4533-a. [Prima] *BILLS AS PRIMA* facie proof of damages. [An item-  
4     ized bill] (A) ITEMIZED *BILLS* or [invoice] *INVOICES*, receipted or marked  
5     paid, for services, *SUPPLIES* or repairs of an amount not in excess of  
6     [two] *TEN* thousand dollars [is] *ARE* admissible in evidence and [is] *ARE*  
7     prima facie evidence of the reasonable value and necessity of such  
8     services, *SUPPLIES* or repairs itemized therein in any civil action  
9     provided [it] *ANY SUCH BILL OR INVOICE* bears a certification by the  
10    person, firm or corporation, or an authorized agent or employee thereof,  
11    [rendering] *FURNISHING* such services *OR SUPPLIES* or making such repairs  
12    and charging for the same, and contains a verified statement that no  
13    part of the payment received therefor will be refunded to the debtor,  
14    and that the amounts itemized therein are the usual and customary rates  
15    charged for such services, *SUPPLIES* or repairs by the affiant or his  
16    employer; and provided further that a true copy of such itemized bill or  
17    invoice together with a notice of intention to introduce such bill or  
18    invoice into evidence pursuant to this rule is served upon each party at  
19    least ten days before the trial. No more than [one bill] *TWO BILLS* or  
20    [invoice] *INVOICES* from the same person, firm or corporation to the same  
21    debtor shall be admissible in evidence under this rule in the same  
22    action, *THE SECOND BILL TO BE ONLY FOR SERVICES, SUPPLIES OR REPAIRS*  
23    *WHICH PERTAIN TO SUCH CLAIM, SUPPLEMENTAL TO THE FIRST BILL FROM THE*  
24    *SAME PROVIDER, AND PROVIDING THAT THE SUM OF BOTH BILLS DOES NOT EXCEED*  
25    *TEN THOUSAND DOLLARS. THIS SUBDIVISION SHALL NOT APPLY TO BILLS,*  
26    *INVOICES, SERVICES, OR SUPPLIES IN PROCEEDINGS BROUGHT PURSUANT TO ARTI-*  
27    *CLE FIFTY-ONE OF THE INSURANCE LAW.*

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

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1 (B) FOR EXPENSES INCLUDING SUPPLIES AND SERVICES OF MEDICAL FACILITIES  
2 AND PROVIDERS PAID BY WORKERS' COMPENSATION PURSUANT TO ARTICLE TWO OF  
3 THE WORKERS' COMPENSATION LAW OR AUTOMOBILE NO FAULT PURSUANT TO ARTICLE  
4 FIFTY-ONE OF THE INSURANCE LAW, OR PAID BY CARRIERS SUCH AS BLUE CROSS,  
5 MEDICARE, MEDICAID AND OTHER THIRD-PARTY PAYERS, AN ITEMIZED BILL OF THE  
6 PAYOR, EITHER CERTIFIED OR ATTESTED UNDER OATH, SHALL BE PRIMA FACIE  
7 EVIDENCE OF SUCH EXPENSES PAID AND OF THE REASONABLENESS FOR PURPOSES OF  
8 THE ACTION, PROVIDED NOTICE IS SERVED UPON EACH PARTY AS SET FORTH IN  
9 SUBDIVISION (A) OF THIS RULE.

10 S 2. This act shall take effect on the ninetieth day after it shall  
11 have become a law.