

4255

2009-2010 Regular Sessions

I N S E N A T E

April 20, 2009

Introduced by Sens. SCHNEIDERMAN, DIAZ, PARKER -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the categories of information that may be required in a bill of particulars in personal injury actions

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

- 1 Section 1. Subdivision (a) of rule 3043 of the civil practice law and
2 rules, paragraph 6 as amended by chapter 805 of the laws of 1984, is
3 amended to read as follows:
4 (a) Specified particulars. In actions to recover for personal injuries
5 the following particulars may be required:
6 (1) The date and approximate time of day of the occurrence;
7 (2) [Its approximate] THE location OF THE OCCURRENCE;
8 (3) [General] A DETAILED statement of the acts or omissions constitut-
9 ing the negligence claimed;
10 (4) Where notice of a condition is a prerequisite, whether actual or
11 constructive notice is claimed;
12 (5) If actual notice is claimed, a statement of when [and] IT WAS
13 GIVEN, to whom it was given, AND THE MEANS BY WHICH IT WAS GIVEN;
14 (6) Statement of the injuries and description of those claimed to be
15 permanent, and in an action designated in subsection (a) of section five
16 thousand one hundred four of the insurance law, for personal injuries
17 arising out of negligence in the use or operation of a motor vehicle in
18 this state, in what respect plaintiff has sustained a serious injury, as
19 defined in subsection (d) of section five thousand one hundred two of
20 the insurance law, or economic loss greater than basic economic loss, as
21 defined in subsection (a) of section five thousand one hundred two of
22 the insurance law;
23 (7) Length of time confined to bed and to house;

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

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1 (8) Length of time incapacitated from employment; [and]
2 (9) Total amounts claimed as special damages for physicians' services
3 and medical supplies; loss of earnings, with name and address of the
4 employer; hospital expenses; nurses' services;
5 (10) ANY PROVISIONS OF SECTION ONE THOUSAND SIX HUNDRED TWO OF THIS
6 CHAPTER CLAIMED TO BE APPLICABLE;
7 (11) THE NAME, ADDRESS AND FILE NUMBER OF ANY COLLATERAL SOURCE OF
8 PAYMENTS OF SPECIAL DAMAGES;
9 (12) ANY LAW, STATUTE, RULE, REGULATION, ORDINANCE, OR INDUSTRIAL OR
10 PROFESSIONAL STANDARD CLAIMED TO HAVE BEEN VIOLATED;
11 (13) IF A DEFECTIVE CONDITION IS CLAIMED, A DESCRIPTION OF THE ALLEGED
12 CONDITION AND THE DATE AND TIME THE ALLEGED DEFECTIVE CONDITION AROSE;
13 AND
14 (14) THE PRINCIPAL ADDRESS OF THE PLAINTIFF.
15 S 2. This act shall take effect immediately and shall apply to a bill
16 of particulars where the demand for the bill of particulars was served
17 on or after such effective date.