S T A T E O F N E W Y O R K

560

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the civil practice law and rules, in relation to failure to accept certain offers to compromise

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

Section 1. Rule 3221 of the civil practice law and rules is amended to read as follows:

Rule 3221. Offer to compromise. Except in a matrimonial action, at any time not later than ten days before trial, any party against whom a claim is asserted, and against whom a separate judgment may be taken, may serve upon the claimant WITH A NOTICE AND COPY TO THE COURT a written offer to allow judgment to be taken against him for a sum or property or to the effect therein specified, with costs then accrued. If within ten days thereafter the claimant serves a written notice that he accepts the offer, either party may file the summons, complaint and offer, with proof of acceptance, and thereupon the clerk shall enter judgment accordingly. IF THE OFFER IS NOT ACCEPTED AND THE COURT IS OF THE OPINION THAT SUCH OFFER IS FAIR AND EQUITABLE, THE COURT MAY RULE THAT IF THE CLAIMANT FAILS TO OBTAIN A MORE FAVORABLE JUDGMENT THAT EITHER THE JUDGMENT BE REDUCED BY TEN PERCENT OR THE ATTORNEY FOR THE CLAIMANT MAY NOT COLLECT A CONTINGENT FEE THAT IS GREATER THAN FIFTEEN PERCENT OF THE AMOUNT OF THE JUDGMENT. If the offer is not accepted and the claimant fails to obtain a more favorable judgment, he shall not recover costs from the time of the offer, but shall pay costs from that time. An offer of judgment shall not be made known to the jury.

S 2. This act shall take effect immediately.

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

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