

4065

2009-2010 Regular Sessions

I N S E N A T E

April 8, 2009

Introduced by Sen. AUBERTINE -- (at request of the Division of State Police) -- 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 acknowledgement of service forms

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

1 Section 1. Subdivision (d) of section 312-a of the civil practice law
2 and rules, as amended by chapter 459 of the laws of 1993, is amended to
3 read as follows:

4 (d) Form. The statement of service by mail and the acknowledgement of
5 receipt of such service shall be in substantially the following form:

6 Statement of Service by Mail and
7 Acknowledgement of Receipt by Mail of
8 Summons and Complaint or Summons and Notice
9 or Notice of Petition and Petition

10 A. STATEMENT OF SERVICE
11 BY MAIL

12 To: (Insert the name and address of the person or entity to be served.)
13 The enclosed summons and complaint, or summons and notice, or notice of
14 petition and petition (strike out inapplicable terms) are served pursuant to section 312-a of the Civil Practice Law and Rules.

15
16 To avoid being charged with the expense of service upon you, you must
17 sign, date and complete the acknowledgement part of this form and mail
18 or deliver one copy of the completed form to the sender within thirty
19 (30) days from the date you receive it. You should keep a copy for your
20 records or your attorney. If you wish to consult an attorney, you should
21 do so as soon as possible before the thirty (30) days expire.

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

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1 If you do not complete and return the form to the sender within thirty
2 (30) days, you (or the party on whose behalf you are being served) will
3 be required to pay expenses incurred in serving the summons and
4 complaint, or summons and notice, or notice of petition and petition in
5 any other manner permitted by law, and the cost of such service as
6 permitted by law will be entered as a judgment against you.

7 If you have received a complaint or petition with this statement, the
8 return of this statement and acknowledgement does not relieve you of the
9 necessity to answer the complaint or petition. The time to answer
10 expires twenty (20) days after the day you mail or deliver this form to
11 the sender. If you wish to consult with an attorney, you should do so as
12 soon as possible before the twenty (20) days expire.

13 If you are served on behalf of a corporation, unincorporated associ-
14 ation, partnership or other entity, you must indicate under your signa-
15 ture your relationship to the entity. If you are served on behalf of
16 another person and you are authorized to receive process, you must indi-
17 cate under your signature your authority.

18 It is a crime to forge a signature or to make a false entry on this
19 statement or on the acknowledgement.

20 B. ACKNOWLEDGEMENT OF RECEIPT OF SUMMONS AND COMPLAINT
21 OR SUMMONS AND NOTICE OR NOTICE OF PETITION AND PETITION

22 I received a summons and complaint, or summons and notice, or notice
23 of petition and petition (strike out inapplicable terms) in the above-
24 captioned matter at (insert address).

25 PLEASE CHECK ONE OF THE FOLLOWING;

26 IF 2 IS CHECKED, COMPLETE AS INDICATED:

27 1. / / I am not in military service.

28 2. / / I am in military service, and my rank[, serial number] and
29 branch of service are as follows:

30 Rank:_____

31 [Serial number:_____]

32 Branch of Service:_____

33 TO BE COMPLETED REGARDLESS OF MILITARY STATUS:

34 Date:_____

35 (Date this Acknowledgement is executed)

36 I affirm the above as true under penalty of perjury.

37
38 Signature_____

39
40 Print name_____

41
42 Name of Defendant for which acting_____

43
44 Position with Defendant for which
45 acting (i.e., officer, attorney,
46 etc.)_____

47 PLEASE COMPLETE ALL BLANKS INCLUDING DATES

48 S 2. This act shall take effect immediately.