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

5262--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- 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 bills as prima facie proof of damages

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

Section 1. Rule 4533-a of the civil practice law and rules, as amended by chapter 249 of the laws of 1988, is amended to read as follows:

Rule 4533-a. [Prima] BILLS AS PRIMA facie proof of damages. [An itemized bill] (A) ITEMIZED BILLS or [invoice] INVOICES, receipted or marked paid, for services, SUPPLIES or repairs of an amount not in excess of [two] TEN thousand dollars [is] ARE admissible in evidence and [is] ARE prima facie evidence of the reasonable value and necessity of such services, SUPPLIES or repairs itemized therein in any civil action provided [it] ANY SUCH BILL OR INVOICE bears a certification by the person, firm or corporation, or an authorized agent or employee thereof, [rendering] FURNISHING such services OR SUPPLIES or making such repairs and charging for the same, and contains a verified statement that no part of the payment received therefor will be refunded to the debtor, and that the amounts itemized therein are the usual and customary rates charged for such services, SUPPLIES or repairs by the affiant or his employer; and provided further that a true copy of such itemized bill or invoice together with a notice of intention to introduce such bill or invoice into evidence pursuant to this rule is served upon each party at least ten days before the trial. No more than [one bill] TWO BILLS or [invoice] INVOICES from the same person, firm or corporation to the same debtor shall be admissible in evidence under this rule in the same action, THE SECOND BILL TO BE ONLY FOR SERVICES, SUPPLIES OR REPAIRS WHICH PERTAIN TO SUCH CLAIM, SUPPLEMENTAL TO THE FIRST BILL FROM THE

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

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SAME PROVIDER, AND PROVIDING THAT THE SUM OF BOTH BILLS DOES NOT EXCEED TEN THOUSAND DOLLARS. THIS SUBDIVISION SHALL NOT APPLY TO BILLS, INVOICES, SERVICES, OR SUPPLIES IN PROCEEDINGS BROUGHT PURSUANT TO ARTICLE FIFTY-ONE OF THE INSURANCE LAW.

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

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