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

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I N S E N A T E

June 5, 2012

Introduced by COMMITTEE ON RULES -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the civil practice law and rules, in relation to service by publication

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

Section 1. Subdivisions (a) and (c) of rule 316 of the civil practice law and rules, subdivision (a) as amended by chapter 528 of the laws of 1978 and subdivision (c) as amended by chapter 191 of the laws of 1979, are amended to read as follows:

(a) Contents of order; form of publication; filing. An order for service of a summons by publication shall direct that the summons be published together with the notice to the defendant, a brief statement of the nature of the action and the relief sought, and, except in an action for medical malpractice, the sum of money for which judgment may be taken in case of default and, if the action is brought to recover a judgment affecting the title to, or the possession, use or enjoyment of, real property, a brief description of the property, in two newspapers, at least one in the English language, designated in the order as most likely to give notice to the person to be served, for a specified time, at least once in each of four successive weeks, except that in the matrimonial action publication in one newspaper [in the English language,] designated in the order as most likely to give notice to the person to be served, at least once in each of three successive weeks shall be sufficient. The summons, complaint, or summons and notice in an action for divorce or separation, order and papers on which the order was based shall be filed on or before the first day of publication.

(c) Time of publication; when service complete. The first publication of the summons shall be made within thirty days after the order is [granted] ENTERED. Service by publication is complete on the twenty-eighth day after the day of first publication, except that in a matrimonial action it is complete on the twenty-first day after the day of first publication.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

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

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