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

4034

2011-2012 Regular Sessions

I N S E N A T E

March 15, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to temporary restraining orders

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

Section 1. Subdivision (a) of section 6313 of the civil practice law and rules, as amended by chapter 235 of the laws of 1982, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time, BUT NOT MORE THAN TEN DAYS FROM THE ISSUANCE OF THE TEMPORARY RESTRAINING ORDER. IN THE EVENT A HEARING ON THE PRELIMINARY INJUNCTION IS NOT HELD WITHIN TEN DAYS FROM THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER, SUCH TEMPORARY RESTRAINING ORDER SHALL BE AUTOMATICALLY VACATED AND CEASE TO HAVE ANY FURTHER FORCE OR EFFECT. A HEARING ON A PRELIMINARY INJUNCTION WHERE A TEMPORARY RESTRAINING ORDER HAS BEEN GRANTED SHALL NOT BE ADJOURNED EXCEPT ON CONSENT OF THE PARTY OR PARTIES AGAINST WHOM THE TEMPORARY RESTRAINING ORDER WAS ISSUED, OR UNLESS THE TEMPORARY RESTRAINING ORDER IS VACATED. IN THE EVENT THAT SUCH TEMPORARY RESTRAINING ORDER IS VACATED BECAUSE A HEARING ON THE PRELIMINARY INJUNCTION WAS NOT HELD WITHIN TEN DAYS OF ITS ISSUANCE, NO FURTHER TEMPORARY RESTRAINING ORDER MAY BE GRANTED.

IN THE EVENT THAT THE COURT DOES NOT DETERMINE THE MOTION FOR PRELIMINARY INJUNCTION ON THE RETURN DATE THE COURT SHALL NOT EXTEND THE TEMPORARY RESTRAINING ORDER UNLESS THE PARTY SEEKING TO EXTEND THE TEMPORARY RESTRAINING ORDER SHALL GIVE AN UNDERTAKING IN AN AMOUNT FIXED BY THE

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

LBD09399-01-1

COURT THAT THE PARTY IF IT IS FINALLY DETERMINED THAT HE OR SHE WAS NOT ENTITLED TO A TEMPORARY RESTRAINING ORDER, WILL PAY TO THE PARTY AGAINST WHOM THE TEMPORARY RESTRAINING ORDER WAS ISSUED, ALL DAMAGES AND COSTS WHICH MAY BE SUSTAINED BY REASON OF THE TEMPORARY RESTRAINING ORDER. IN THE EVENT THAT SUCH TEMPORARY RESTRAINING ORDER IS NOT EXTENDED BECAUSE AN UNDERTAKING WAS NOT GIVEN, NO FURTHER TEMPORARY RESTRAINING ORDER MAY BE GRANTED. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties.

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