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I N   A S S E M B L Y

March 12, 2014
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Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court
  Administration) -- read once and referred to the Committee on Judici-
  ary -- 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 the
  time of disclosure of expert witness information

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

 1   Section 1. Paragraph 1 of subdivision (d) of section 3101 of the civil
 2 practice law and rules is amended by adding two new subparagraphs (v)
 3 and (vi) to read as follows:
 4   (V) DISCLOSURE OF EXPERT   INFORMATION SHALL BE MADE AS FOLLOWS: THE
 5 PARTY WHO HAS THE BURDEN OF PROOF ON A CLAIM, CAUSE OF ACTION, DAMAGE OR
 6 DEFENSE SHALL SERVE ITS RESPONSE TO AN EXPERT DEMAND SERVED PURSUANT TO
 7 THIS SUBDIVISION AT LEAST SIXTY DAYS BEFORE THE DATE ON WHICH THE TRIAL
 8 IS SCHEDULED TO COMMENCE; WITHIN THIRTY DAYS AFTER SERVICE OF SUCH
 9 RESPONSE, ANY OPPOSING PARTY SHALL SERVE ITS ANSWERING RESPONSE PURSUANT
10 TO THIS SUBDIVISION; WITHIN FIFTEEN DAYS AFTER SERVICE OF SUCH RESPONSE,
11 ANY PARTY MAY SERVE AN AMENDED OR SUPPLEMENTAL RESPONSE LIMITED TO
12 ISSUES RAISED IN THE ANSWERING RESPONSE. IF THE TRIAL IS ADJOURNED, THE
13 DEADLINES IN THIS SUBPARAGRAPH SHALL SHIFT ACCORDINGLY. UNLESS THE COURT
14 ORDERS OTHERWISE, FOR GOOD CAUSE SHOWN OR IN THE INTERESTS OF JUSTICE, A
15 PARTY WHO FAILS TO COMPLY WITH THIS SUBPARAGRAPH SHALL BE PRECLUDED FROM
16 OFFERING THE TESTIMONY AND OPINIONS OF THE EXPERT FOR WHOM A TIMELY
17 RESPONSE HAS NOT BEEN GIVEN.
18   (VI) SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL NOT APPLY TO A TREATING
19 PHYSICIAN OR OTHER TREATING HEALTH CARE PROVIDER FOR WHOSE RECORDS A
20 PATIENT AUTHORIZATION IS GIVEN TO THE OPPOSING PARTY.
21   S 2. This act shall take effect immediately, and shall apply to all
22 rules or orders requiring the service of expert responses issued prior
23 to, on or after such effective date.

                                                          LBD09841-04-4