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

9076--A

I N A S S E M B L Y

March 12, 2014

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 1 of subdivision (d) of section 3101 of the civil practice law and rules is amended by adding two new subparagraphs (v) and (vi) to read as follows:

(V) DISCLOSURE OF EXPERT INFORMATION SHALL BE MADE AS FOLLOWS: THE PARTY WHO HAS THE BURDEN OF PROOF ON A CLAIM, CAUSE OF ACTION, DAMAGE OR DEFENSE SHALL SERVE ITS RESPONSE TO AN EXPERT DEMAND SERVED PURSUANT TO THIS SUBDIVISION AT LEAST SIXTY DAYS BEFORE THE DATE ON WHICH THE TRIAL IS SCHEDULED TO COMMENCE; WITHIN THIRTY DAYS AFTER SERVICE OF SUCH RESPONSE, ANY OPPOSING PARTY SHALL SERVE ITS ANSWERING RESPONSE PURSUANT TO THIS SUBDIVISION; WITHIN FIFTEEN DAYS AFTER SERVICE OF SUCH RESPONSE, ANY PARTY MAY SERVE AN AMENDED OR SUPPLEMENTAL RESPONSE LIMITED TO ISSUES RAISED IN THE ANSWERING RESPONSE. IF THE TRIAL IS ADJOURNED, THE DEADLINES IN THIS SUBPARAGRAPH SHALL SHIFT ACCORDINGLY. UNLESS THE COURT ORDERS OTHERWISE, FOR GOOD CAUSE SHOWN OR IN THE INTERESTS OF JUSTICE, A PARTY WHO FAILS TO COMPLY WITH THIS SUBPARAGRAPH SHALL BE PRECLUDED FROM OFFERING THE TESTIMONY AND OPINIONS OF THE EXPERT FOR WHOM A TIMELY RESPONSE HAS NOT BEEN GIVEN.

(VI) SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL NOT APPLY TO A TREATING PHYSICIAN OR OTHER TREATING HEALTH CARE PROVIDER FOR WHOSE RECORDS A PATIENT AUTHORIZATION IS GIVEN TO THE OPPOSING PARTY.

S 2. This act shall take effect immediately, and shall apply to all rules or orders requiring the service of expert responses issued prior to, on or after such effective date.

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

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