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

5570

2013-2014 Regular Sessions

I N A S S E M B L Y

February 28, 2013

Introduced by M. of A. TITONE -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to expediting actions involving insurance claims for damages resulting from a state disaster emergency

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

Section 1. The civil practice law and rules is amended by adding three new rules 3410, 3411 and 3412 to read as follows:

RULE 3410. MANDATORY PRELIMINARY CONFERENCE IN CERTAIN INSURANCE ACTIONS. (A) IN ANY ACTION INVOLVING AN INSURANCE CLAIM FOR DAMAGES OCCURRING TO PROPERTY IN A COUNTY WHERE A STATE DISASTER EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW RELATING TO ANY CLAIM ARISING FROM THE CAUSE OF SUCH DECLARATION, THE COURT SHALL HOLD A PRELIMINARY CONFERENCE WITHIN THIRTY DAYS AFTER THE REQUEST FOR JUDICIAL INTERVENTION IS FILED.

(B) AT ANY CONFERENCE HELD PURSUANT TO THIS RULE, ALL PARTIES SHALL APPEAR IN PERSON OR BY COUNSEL, AND IF APPEARING BY COUNSEL, SUCH COUNSEL SHALL BE FULLY AUTHORIZED TO DISPOSE OF THE CASE. IN THE COURT'S DISCRETION, THE COURT MAY PERMIT A REPRESENTATIVE OF ANY PARTY TO ATTEND THE SETTLEMENT CONFERENCE TELEPHONICALLY OR BY VIDEO-CONFERENCE.

(C) UPON FILING OF A REQUEST FOR JUDICIAL INTERVENTION, THE COURT SHALL PROMPTLY SEND A NOTICE TO PARTIES ADVISING THEM OF THE TIME AND PLACE OF THE CONFERENCE, THE PURPOSE OF THE CONFERENCE AND THE REQUIREMENTS OF THIS RULE. THE NOTICE SHALL BE IN A FORM PRESCRIBED BY THE OFFICE OF COURT ADMINISTRATION, OR, AT THE DISCRETION OF THE OFFICE OF COURT ADMINISTRATION, THE ADMINISTRATIVE JUDGE OF THE JUDICIAL DISTRICT IN WHICH THE ACTION IS PENDING, AND SHALL ADVISE THE PARTIES OF THE DOCUMENTS THAT THEY SHOULD BRING TO THE CONFERENCE.

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

LBD08348-06-3

(D) NO ADJOURNMENT IN EXCESS OF TEN DAYS SHALL BE GRANTED BY THE COURT FOR ANY SUCH PRELIMINARY CONFERENCE, AND SUCH AN ADJOURNMENT SHALL ONLY BE GRANTED UPON GOOD CAUSE SHOWN.

(E) DISCOVERY SHALL BE COMPLETED WITHIN SIXTY DAYS FROM THE DATE OF THE PRELIMINARY CONFERENCE, AND PENALTIES MAY BE ASSESSED AGAINST ANY PARTY AS PER SECTION THREE THOUSAND ONE HUNDRED TWENTY-SIX OF THIS CHAPTER FOR REFUSAL TO COMPLY WITH DISCOVERY WITHIN SAID SIXTY DAY TIME PERIOD. THE COURT MAY EXTEND SAID SIXTY DAY TIME PERIOD SUA SPONTE IN THE INTEREST OF JUSTICE, OR UPON GOOD CAUSE SHOWN BY ANY PARTY.

RULE 3411. MANDATORY SETTLEMENT CONFERENCE IN CERTAIN INSURANCE ACTIONS. IN ANY ACTION INVOLVING AN INSURANCE CLAIM FOR DAMAGES OCCURRING TO PROPERTY IN A COUNTY WHERE A STATE DISASTER EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW RELATING TO ANY CLAIM ARISING FROM THE CAUSE OF SUCH DECLARATION, THE COURT SHALL HOLD A MANDATORY SETTLEMENT CONFERENCE WITHIN FOURTEEN DAYS AFTER A NOTE OF ISSUE HAS BEEN FILED FOR THE PURPOSE OF HOLDING SETTLEMENT DISCUSSIONS PERTAINING TO SUCH INSURANCE CLAIMS.

RULE 3412. MOTIONS IN CERTAIN INSURANCE ACTIONS. (A) NOTWITHSTANDING SUBDIVISION (A) OF RULE THIRTY-TWO HUNDRED TWELVE OF THIS CHAPTER, IN ANY ACTION INVOLVING AN INSURANCE CLAIM FOR DAMAGES OCCURRING TO PROPERTY IN A COUNTY WHERE A STATE DISASTER EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW RELATING TO ANY CLAIM ARISING FROM THE CAUSE OF SUCH DECLARATION, ALL PRE-TRIAL MOTIONS SHALL BE MADE WITHIN THIRTY DAYS AFTER THE NOTE OF ISSUE IS FILED.

(B) THIS RULE SHALL NOT APPLY TO CLAIMS INVOLVING REINSURANCE.

S 2. Subdivision (a) of rule 3403 of the civil practice law and rules is amended by adding a new paragraph 7 to read as follows:

7. AN ACTION TO RECOVER DAMAGES RESULTING FROM DAMAGE TO PROPERTY IN A COUNTY CAUSED BY A NATURAL DISASTER UPON DECLARATION OF A STATE DISASTER EMERGENCY BY THE GOVERNOR PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW RELATING TO ANY CLAIM ARISING FROM THE CAUSE OF SUCH DECLARATION.

S 3. This act shall take effect immediately.