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

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I N A S S E M B L Y

March 16, 2016

Introduced by M. of A. SEAWRIGHT, WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the failure to provide notice of a default judgment

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

Section 1. Paragraph 1 of subdivision (g) of section 3215 of the civil practice law and rules, as amended by chapter 100 of the laws of 1994, is amended to read as follows:

1. Except as otherwise provided with respect to specific actions, whenever application is made to the court or to the clerk, any defendant who has appeared is entitled to at least five days' notice of the time and place of the application, and if more than one year has elapsed since the default any defendant who has not appeared is entitled to the same notice unless the court orders otherwise. The court may dispense with the requirement of notice when a defendant who has appeared has failed to proceed to trial of an action reached and called for trial. WHEN SUCH NOTICE IS REQUIRED BUT NOT GIVEN AND JUDGMENT IS ENTERED, AN APPLICATION TO VACATE THE JUDGMENT BROUGHT BY THE PARTY ENTITLED TO RECEIVE NOTICE SHALL BE GRANTED, PROVIDED SUCH PARTY ACTED WITH DUE DILIGENCE AFTER HAVING OBTAINED KNOWLEDGE OF ENTRY OF THE JUDGMENT.

S 2. This act shall take effect immediately and shall apply to any application made 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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