STATE OF NEW YORK

8852--B

2017-2018 Regular Sessions

IN ASSEMBLY

December 22, 2017

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to requiring all personal injury or wrongful death causes of action to include a prayer for general relief; and to amend the general municipal law, in relation to exempting notices of claim from such requirement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (b) of rule 305 of the civil practice law and rules, as amended by chapter 528 of the laws of 1978, is amended to read as follows:

(b) Summons and notice. If the complaint is not served with the summons, the summons shall contain or have attached thereto a notice stating the nature of the action and the relief sought[~~,~~] and, except in [~~an action for medical malpractice~~] **actions for personal injury or wrongful death**, the sum of money for which judgment may be taken in case of default.

§ 2. Subdivision (c) of section 3017 of the civil practice law and rules, as amended by chapter 694 of the laws of 2003, is amended to read as follows:

(c) Personal injury or wrongful death actions. In an action to recover damages for personal injuries or wrongful death, the complaint, **summons with notice,** counterclaim, cross-claim, interpleader complaint, and third-party complaint shall contain a prayer for general relief but shall not state the amount of damages to which the pleader deems himself **or herself** entitled. If the action is brought in the supreme court, the pleading shall also state whether or not the amount of damages sought

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

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exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Provided, however, that a party against whom an action to recover damages for personal injuries or wrongful death is brought, may at any time request a supplemental demand setting forth the total damages to which the pleader deems himself **or herself** entitled. A supplemental demand shall be provided by the party bringing the action within fifteen days of the request. In the event the supplemental demand is not served within fifteen days, the court, on motion, may order that it be served. A supplemental demand served pursuant to this subdivision shall be treated in all respects as a demand made pursuant to subdivision (a) of this section.

§ 3. Subdivision 2 of section 50-e of the general municipal law, as amended by chapter 62 of the laws of 1983, is amended to read as follows:

2. Form of notice; contents. The notice shall be in writing, sworn to by or on behalf of the claimant, and shall set forth: (1) the name and post-office address of each claimant, and of his **or her** attorney, if any; (2) the nature of the claim; (3) the time when, the place where and the manner in which the claim arose; and (4) the items of damage or injuries claimed to have been sustained so far as then practicable but a notice with respect to a claim against a municipal corporation [~~other than a city with a population of one million or more persons~~] shall not state the amount of damages to which the claimant deems himself **or herself** entitled, provided, however, that the municipal corporation[~~, other than a city with a population of one million or more persons,~~] may at any time request a supplemental claim setting forth the total damages to which the claimant deems himself **or herself** entitled. A supplemental claim shall be provided by the claimant within fifteen days of the request. In the event the supplemental demand is not served within fifteen days, the court, on motion, may order that it be provided by the claimant.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to actions commenced on or after such date.