STATE OF NEW YORK

1697--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. L. ROSENTHAL -- 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

AN ACT to amend the civil practice law and rules, in relation to permitting certain testimony and evidence by a person alleging discrimination

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 a new rule 4551 to read as follows:

Rule 4551. Admissibility of allegations of discrimination; hearsay exception. (a) When used in this rule, "discrimination" shall mean any unlawful discriminatory practice pursuant to article fifteen of the executive law, including unlawful discriminatory practices based on race, creed, color, national origin, sexual orientation, gender identity or expression, military status, age, sex, marital status, childbearing potential, disability, or familial status.

(b) In a civil action, at the trial or upon the hearing of a motion or an interlocutory proceeding, evidence that a party alleging discrimination, including but not limited to sexual harassment and/or misconduct, reported such discrimination or facts giving rise to an inference of such discrimination to another person, including evidence concerning the contents of such report or statement of facts, may be admitted as an exception to the inadmissibility of hearsay to support the allegation that discrimination occurred.

(c) For evidence of a report or statement to be admissible under this rule, such report or statement must have been made before the last adverse action complained of is taken, or promptly after such action is taken. Promptness shall be determined by all facts and circumstances,

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

LBD05775-03-3

giving due regard to the sensitivity of the subject matter, the mental state of the party alleging discrimination, or any other relevant information.

(d) The proponent of such evidence has the burden of demonstrating that the reporting was made under circumstances which render it reasonably reliable.

(e) This rule is only applicable in civil matters and shall not apply in criminal proceedings.

§ 2. This act shall take effect immediately and apply to all actions filed on or after such effective date.