STATE OF NEW YORK

8728

2025-2026 Regular Sessions

IN ASSEMBLY

June 2, 2025

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

AN ACT to amend the civil practice law and rules, in relation to enacting the "avoiding vexatious overuse of impleading to delay (AVOID) act"

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

Section 1. This act shall be known and may be cited as the "avoiding vexatious overuse of impleading to delay (AVOID) act".

§ 2. Section 1007 of the civil practice law and rules, as amended by chapter 216 of the laws of 1992, is amended to read as follows:

§ 1007. When third-party practice allowed. **(a)** After the service of [~~his~~] **a defendant's** answer, [~~a~~] **the** defendant may proceed against a person **or legal entity** not a party who is or may be liable to that defendant for all or part of the plaintiff's claim against that defendant, by filing pursuant to section three hundred four of this chapter a third-party summons and complaint with the clerk of the court in the county in which the main action is pending, for which a separate index number shall not be issued but a separate index number fee shall be collected. The third-party summons and complaint and all prior pleadings served in the action shall be served upon such person **or legal entity** within [~~one hundred~~] twenty days of the filing. A defendant serving a third-party complaint shall be styled a third-party plaintiff and the person **or legal entity** so served shall be styled a third-party defendant. The defendant shall also serve a copy of such third-party complaint upon the plaintiff's attorney simultaneously upon issuance for service of the third-party complaint on the third-party defendant.

(b) 1. A defendant shall proceed with the filing and serving of a third-party summons and complaint against a person or legal entity who is or may be liable to that defendant for all or part of the plaintiff's claim against that defendant within sixty days after serving an answer

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

LBD13132-03-5

upon the plaintiff in the event that such liability arises from a contractual relationship between the defendant and such person or entity, or otherwise within sixty days of becoming aware that such person is or may be liable to the defendant for all or part of a plaintiff's claim.

2. A third-party defendant who proceeds with the filing of its own third-party summons and complaint, becoming in effect a second third-party plaintiff, shall proceed with the filing and serving of such summons and complaint against a second third-party defendant, within forty-five days after serving an answer.

3. A second third-party defendant who then proceeds with the filing of its own third-party summons and complaint, becoming in effect a third third-party plaintiff, shall proceed with the filing and serving of such summons and complaint against a third third-party defendant within thirty days after serving an answer.

4. Any subsequent third-party defendant, who proceeds with the filing of its own third-party summons and complaint, becoming in effect an additional third-party plaintiff, shall proceed with the filing of such summons and complaint against an additional third-party defendant within twenty days after serving an answer.

5. There shall be no extensions of the time periods set forth in this subdivision longer than thirty days without an order of the court, provided that a defendant or third-party defendant may not proceed with the filing and serving a third-party summons and complaint twelve months after having filed an answer in the action without written consent of both the plaintiff and the court.

(c) Notwithstanding subdivision (b) of this section, a defendant or third-party defendant may not proceed with the filing of a third-party summons and complaint after the filing of a note of issue. An action filed in violation of this subdivision shall be severed or dismissed without prejudice.

(d) The time periods set forth in subdivisions (b) and (c) of this section shall not apply when a defendant or third-party defendant seeks to file and proceed with a third-party summons and complaint against an employer of the plaintiff in the event that either: 1. the defendant or third-party defendant is seeking contribution or indemnification for a grave injury as such term in defined in section eleven of the workers' compensation law, or 2. the identity of such employer had not been known to the defendant or third-party defendant or otherwise identified until the such time periods have expired. In either instance, the defendant or third-party defendant shall proceed with the filing and serving of a summons and complaint within one hundred twenty days after the later of either event. An action in violation of this subdivision shall not be allowed to proceed without written consent of both the plaintiff and the court.

(e) In the event a third-party action is severed from the initial action, and a third-party plaintiff proceeds to initiate a new action by the filing of a summons and complaint against a severed third-party defendant, any motion to consolidate such actions shall not be permitted.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to cases pending on or after such date; provided, however, this act shall not apply to any third-party summons and complaint filed and served prior to the effective date of this act.