

PUBLICATION UPDATE

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Bender's Forms for the Civil Practice (Volumes 1-29)

Publication 00075 Release 110

April 2008

HIGHLIGHTS

Release 110 features:

- New forms added and existing forms updated throughout.
- The Index (Volume 29) has been completely revised.

Of special interest, Articles 52 and 54 have been updated to include new forms relating to the enforcement of sister state judgments. These include a petition for the sale of a debtor's homestead to pay a sister state judgment, a motion for summary judgment in lieu of a complaint upon a sister state default judgment, and an answer to a complaint to enforce a sister state default money judgment asserting the affirmative defense of lack of personal jurisdiction in the sister state action.

In Article 3, several new forms have been added relating to motions for orders permitting service of a summons and complaint on an insurance company when the defendant cannot be served. Included are

motion papers supporting and opposing such a motion.

Several new forms have been added relating to severance of a third-party action for a judgment declaring the obligation of an insurer to defend and indemnify the third-party plaintiff in an underlying subrogation action. Also added are forms for sue in an application to stay a proceeding to determine the issue of insurance coverage pending clarification and reargument of a prior order.

Another highlight of this release is the inclusion of affidavits opposing a petition to compel compliance with a subpoena duces tecum unilaterally issued by a city council member.

Several new complaints have been added. These include a complaint in an action for a declaratory judgment that a site plan review and variance are not required, coupled with an Article 78 petition to strike a building official's stop work order. A new complaint has also been added in a subro-

gation action by an insurer to recoup money paid on its insured's claim for property damage.

Additionally, new forms have been added for use in appeals to the Court of Appeals. These include motions papers in the Appellate Division for leave to appeal to the court of appeals to review specified questions of law, and motion papers in the Appellate Division for leave to appeal the denial of a defendant's summary judgment motion to the court of appeals.

A list of new forms follows:

- *Form 308:37A* Notice of Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37B* Affidavit in Support of Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37C* Attorney's Affirmation in Opposition to Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37D* Affidavit of Insurance Company Employee in Opposition to Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37E* Notice of Cross-Motion by Insurance Company for Leave to Renew and Reargue Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37F* Affirmation in Support of Cross-Motion for Order by Insurance Company for Leave to Renew and Reargue Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37G* Affidavit in Support of Cross-Motion by Insurance Company for Leave to Renew and Reargue Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37H* Reply Affirmation in Support of Cross-Motion by Insurance Company for Leave to Renew and Reargue Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 308:37I* Reply Affidavit in Support of Cross-Motion by Insurance Company for Leave to Renew and Reargue Motion for Order Permitting Service of Summons and Complaint on Insurer
- *Form 506:2* Affirmation Opposing Demand for Change of Venue of Special Proceeding to Vacate Post-Release Supervision Imposed by Department of Correctional Services
- *Form 603:31* Notice of Motion by Insurer to Sever Third-Party Action for Judgment Declaring Obligation of Insurer to Defend and Indemnify Third-Party Plaintiff in Underlying Subrogation Action
- *Form 603:32* Attorney's Affidavit in Support of Motion by Insurer to Sever Third-Party Action for Judgment Declaring Obligation of Insurer to Defend and Indemnify Third-Party Plaintiff in Underlying Subrogation Action
- *Form 603:33* Reply Affidavit in Support of Motion by Insurer to Sever Third-Party Action for Judgment Declaring Obligation of Insurer to Defend and Indemnify Third-Party Plaintiff in Underlying Subrogation Action
- *Form 1004:7* Title and Allegations in Complaint in Action Brought by

Insured Person Who Has Executed to Insurer a Loan or Subrogation Receipt

- *Form 1008:8* Answer to Third-Party Action for Judgment, Declaring Insurer's Obligation to Defend and Indemnify, With Affirmative Defenses and Cross-Claim Against Original Defendants
- *Form 1018:1A* Order to Show Cause on Motion by Assignee of Claim to Be Substituted as Plaintiff in the Action
- *Form 1021:16* Trial Subpoena and Subpoena Duces Tecum; Documents Listed in Exhibit
- *Form 2201:19* Order to Show Cause to Stay Proceeding to Determine Issue of Insurance Coverage Pending Clarification and Reargument of Prior Order
- *Form 2201:20* Affirmation in Support of Order to Show Cause to Stay Proceeding to Determine Issue of Insurance Coverage Pending Clarification and Reargument of Prior Order
- *Form 2308:19* Affidavit of Director of Charitable Organization Opposing Petition of City Council Member to Compel Compliance with Subpoena Duces Tecum Unilaterally Issued by Council Member
- *Form 2308:20* Affidavit of Attorney for Charitable Organization Opposing Petition of City Council Member to Compel Compliance with Subpoena Duces Tecum Unilaterally Issued by Council Member
- *Form 3001:5A* Complaint in Action for Declaratory Judgment That Site Plan Review and Variance Not

Required and Petition to Strike Building Official's Stop Work Order

- *Form 3013:129A* Complaint in Subrogation Action by Insurer to Recoup Money Paid on Its Insured's Claim for Property Damage
- *Form 3124:16A* Notice of Cross-Motion for Order Compelling Production of Plaintiff's Treating Psychologist's Records Where Plaintiff Seeks Recovery For Emotional Injuries
- *Form 3124:16B* Affirmation of Good Faith in Support of Cross-Motion for Order Compelling Production of Plaintiff's Treating Psychologist's Records Where Plaintiff Seeks Recovery For Emotional Injuries
- *Form 3124:16C* Affirmation in Support of Cross-Motion for Order Compelling Production of Plaintiff's Treating Psychologist's Records Where Plaintiff Seeks Recovery For Emotional Injuries
- *Form 3211:95A* Notice of Cross-Motion to Dismiss Affirmative Defense of Release and Discharge
- *Form 3211:95B* Affirmation in Support of Cross-Motion to Dismiss Affirmative Defense of Release and Discharge
- *Form 3212:10B* Affirmation in Opposition to Plaintiff's Motion for Summary Judgment on the Issue of Liability in Personal Injury Action
- *Form 3212:10C* Affidavit of Non-party Eyewitness in Opposition to Plaintiff's Motion for Summary Judgment on the Issue of Liability in Personal Injury Action
- *Form 5206:11* Order to Show

- Cause on Petition for Sale of Debtor's Homestead to Pay Sister State Judgment
- *Form 5206:12* Petition for Sale of Debtor's Homestead to Pay Sister State Judgment
 - *Form 5206:13* Affirmation in Reply to Opposition to Petition for Sale of Debtor's Homestead to Pay Sister State Judgment
 - *Form 5406:2* Notice of Motion for Summary Judgment in Lieu of Complaint Upon a Sister State Default Judgment
 - *Form 5406:3* Affirmation in Support of Motion for Summary Judgment in Lieu of Complaint Upon a Sister State Default Judgment
 - *Form 5406:4* Answer to Complaint in Action to Enforce Sister State Default Money Judgment Asserting Affirmative Defense of Lack of Personal Jurisdiction in Sister State Action
 - *Form 5406:5* Affidavit Opposing Motion for Summary Judgment in Action to Enforce Sister State Default Money Judgment Asserting Affirmative Defense of Lack of Personal Jurisdiction in Sister State Action
 - *Form 5516:2* Notice of Motion to Appellate Division, First Department, for Leave to Appeal to Court of Appeals for Review of Specified Questions of Law
 - *Form 5516:3* Affirmation in Support of Motion to Appellate Division, First Department, for Leave to Appeal to Court of Appeals for Review of Specified Questions of Law
 - *Form 5520:4* Affirmation in Opposition to Motion to Dismiss Appeal
- Where Notice of Appeal Not Timely Filed in Clerk's Office
- *Form 5525:12A* Certification Pursuant to CPLR 2105; Copy of Record in Appellate Division Submitted to Court of Appeals
 - *Form 5531:3* Statement Pursuant to CPLR 5531; Court of Appeals
 - *Form 5602:7A* Notice of Motion to Appellate Division for Leave to Appeal Denial of Defendant's Summary Judgment Motion to Court of Appeals
 - *Form 5602:7B* Attorney's Affidavit in Support of Motion to Appellate Division for Leave to Appeal Denial of Defendant's Summary Judgment Motion to Court of Appeals
 - *Form 5602:7C* Order of Appellate Division Granting Leave to Appeal Denial of Defendant's Summary Judgment Motion to Court of Appeals
 - *Form 6401:14A* Affirmation in Opposition to Plaintiff's Motion for Order Appointing Temporary Receiver on Ground That Plaintiff Lacks Standing
 - *Form 7803:77B* Notice of Petition to Vacate Post-Release Supervision Imposed by Department of Correctional Services and to Stay Parole Revocation Proceedings
 - *Form 7803:77C* Petition to Vacate Post-Release Supervision Imposed by Department of Correctional Services and to Stay Parole Revocation Proceedings
 - *Form 7803:77D* Judgment Vacating Post-Release Supervision Imposed by Department of Correctional Services and Ordering Petitioner's Release from Custody

- *Form 8003:5* Affirmation in Support of Application of Referee in Foreclosure Action for Additional Fees Occasioned by Post-Sale Proceedings
- *Form 8003:6* Order Granting Referee in Foreclosure Action Additional Fees Occasioned by Post-Sale Proceedings

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Publication 75 Release 110

April 2008

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