



Sen. Ira I. Silverstein

**Filed: 3/17/2005**

09400SB1893sam001

LRB094 08989 LCB 43990 a

1 AMENDMENT TO SENATE BILL 1893

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1893 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by  
5 changing Section 2-402 as follows:

6 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

7 (Text of Section WITH the changes made by P.A. 89-7, which  
8 has been held unconstitutional)

9 Sec. 2-402. Respondents in discovery. The plaintiff in any  
10 civil action may designate as respondents in discovery in his  
11 or her pleading those individuals or other entities, other than  
12 the named defendants, believed by the plaintiff to have  
13 information essential to the determination of who should  
14 properly be named as additional defendants in the action.  
15 Fictitious defendants may not be named in a complaint in order  
16 to designate respondents in discovery.

17 Persons or entities so named as respondents in discovery  
18 shall be required to respond to discovery by the plaintiff in  
19 the same manner as are defendants and may, on motion of the  
20 plaintiff, be added as defendants if the evidence discloses the  
21 existence of probable cause for such action.

22 A person or entity named a respondent in discovery may upon  
23 his or her own motion be made a defendant in the action, in  
24 which case the provisions of this Section are no longer

1 applicable to that person.

2 A copy of the complaint shall be served on each person or  
3 entity named as a respondent in discovery.

4 Each respondent in discovery shall be paid expenses and  
5 fees as provided for witnesses.

6 A person or entity named as a respondent in discovery in  
7 any civil action may be made a defendant in the same action at  
8 any time within 6 months after being named as a respondent in  
9 discovery, even though the time during which an action may  
10 otherwise be initiated against him or her may have expired  
11 during such 6 month period. An extension from the original  
12 6-month period for good cause may be granted only once for up  
13 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)  
14 good cause. Notwithstanding the limitations in this Section,  
15 the court may grant additional reasonable extensions from this  
16 6-month period for a failure or refusal on the part of the  
17 respondent to comply with timely filed discovery. ~~No extensions~~  
18 ~~of this 6 month period shall be permitted unless the plaintiff~~  
19 ~~can show a failure or refusal on the part of the respondent to~~  
20 ~~comply with timely filed discovery.~~

21 The plaintiff shall serve upon the respondent or  
22 respondents a copy of the complaint together with a summons in  
23 a form substantially as follows:

24 "STATE OF ILLINOIS

25 COUNTY OF .....

26 IN THE CIRCUIT COURT OF ..... COUNTY, ILLINOIS

27 COUNTY DEPARTMENT, LAW DIVISION

28 (or, In the Circuit Court of the ..... Judicial Circuit)

29 .....

30 Plaintiff(s),



1 attached (or)

2 (serve the following interrogatories, request to produce, or  
3 other appropriate discovery tool upon Respondent,  
4 ..... to be answered under oath by  
5 Respondent, ....., and delivered to the  
6 office of ....., Illinois, within  
7 28 days from date of service).

8 TO THE OFFICER/SPECIAL PROCESS SERVER:

9 This summons must be returned by the officer or other  
10 person to whom it was given for service, with endorsement or  
11 affidavit of service and fees and an endorsement or affidavit  
12 of payment to the Respondent of witness and mileage fees, if  
13 any, immediately after service. If service cannot be made, this  
14 summons shall be returned so endorsed.

15 WITNESS, .....

16 .....

17 Clerk of Court

18 Date of Service: .....,20...

19 (To be inserted by officer on copy left  
20 with Respondent or other person)

21 Attorney No.

22 Name:

23 Attorney for:

24 Address:

25 City/State/Zip:

26 Telephone:".

27 This amendatory Act of 1995 applies to causes of action  
28 filed on or after its effective date.

1        This amendatory Act of the 94th General Assembly applies to  
2        causes of action pending on or after its effective date.

3        (Source: P.A. 89-7, eff. 3-9-95.)

4        (Text of Section WITHOUT the changes made by P.A. 89-7,  
5        which has been held unconstitutional)

6        Sec. 2-402. Respondents in discovery. The plaintiff in any  
7        civil action may designate as respondents in discovery in his  
8        or her pleading those individuals or other entities, other than  
9        the named defendants, believed by the plaintiff to have  
10       information essential to the determination of who should  
11       properly be named as additional defendants in the action.

12       Persons or entities so named as respondents in discovery  
13       shall be required to respond to discovery by the plaintiff in  
14       the same manner as are defendants and may, on motion of the  
15       plaintiff, be added as defendants if the evidence discloses the  
16       existence of probable cause for such action.

17       A person or entity named a respondent in discovery may upon  
18       his or her own motion be made a defendant in the action, in  
19       which case the provisions of this Section are no longer  
20       applicable to that person.

21       A copy of the complaint shall be served on each person or  
22       entity named as a respondent in discovery.

23       Each respondent in discovery shall be paid expenses and  
24       fees as provided for witnesses.

25       A person or entity named as a respondent in discovery in  
26       any civil action may be made a defendant in the same action at  
27       any time within 6 months after being named as a respondent in  
28       discovery, even though the time during which an action may  
29       otherwise be initiated against him or her may have expired  
30       during such 6 month period. An extension from the original  
31       6-month period for good cause may be granted only once for up  
32       to 90 days for (i) withdrawal of plaintiff's counsel or (ii)  
33       good cause. Notwithstanding the limitations in this Section,

1 the court may grant additional reasonable extensions from this  
2 6-month period for a failure or refusal on the part of the  
3 respondent to comply with timely filed discovery.

4 The plaintiff shall serve upon the respondent or  
5 respondents a copy of the complaint together with a summons in  
6 a form substantially as follows:

7 "STATE OF ILLINOIS

8 COUNTY OF .....

9 IN THE CIRCUIT COURT OF ..... COUNTY, ILLINOIS

10 COUNTY DEPARTMENT, LAW DIVISION

11 (or, In the Circuit Court of the ..... Judicial Circuit)

12 .....

13 Plaintiff(s),

14 v.

No.

15 .....

16 .....,

17 Defendant(s),

18 and

PLEASE SERVE:

19 .....

20 .....,

21 Respondent(s) in Discovery.

22 SUMMONS FOR DISCOVERY

23 TO RESPONDENT IN DISCOVERY:

24 YOU ARE HEREBY NOTIFIED that on ....., 20.....,  
25 a complaint, a copy of which is attached, was filed in the  
26 above Court naming you as a Respondent in Discovery. Pursuant  
27 to the Illinois Code of Civil Procedure Section 2-402 and

1 Supreme Court Rules 201 et. seq., and/or Court Order entered on  
 2 ....., the above named  
 3 Plaintiff(s) are authorized to proceed with the discovery of  
 4 the named Respondent(s) in Discovery.

5 YOU ARE SUMMONED AND COMMANDED to appear for deposition,  
 6 before a notary public (answer the attached written  
 7 interrogatories), (respond to the attached request to  
 8 produce), (or other appropriate discovery tool).

9 We are scheduled to take the oral discovery deposition of the  
 10 above named Respondent, ....., on  
 11 ....., 20..., at the hour of .....  
 12 a.m./p.m., at the office  
 13 ....., Illinois, in  
 14 accordance with the rules and provisions of this Court. Witness  
 15 and mileage fees in the amount of ..... are  
 16 attached (or)

17 (serve the following interrogatories, request to produce, or  
 18 other appropriate discovery tool upon Respondent,  
 19 ..... to be answered under oath by  
 20 Respondent, ....., and delivered to the  
 21 office of ....., Illinois, within  
 22 28 days from date of service).

23 TO THE OFFICER/SPECIAL PROCESS SERVER:

24 This summons must be returned by the officer or other  
 25 person to whom it was given for service, with endorsement or  
 26 affidavit of service and fees and an endorsement or affidavit  
 27 of payment to the Respondent of witness and mileage fees, if  
 28 any, immediately after service. If service cannot be made, this  
 29 summons shall be returned so endorsed.

1 WITNESS, .....

2 .....

3 Clerk of Court

4 Date of Service: ....., 20...

5 (To be inserted by officer on copy left

6 with Respondent or other person)

7 Attorney No.

8 Name:

9 Attorney for:

10 Address:

11 City/State/Zip:

12 Telephone:".

13 This amendatory Act of the 94th General Assembly applies to  
14 causes of action pending on or after its effective date.

15 (Source: P.A. 86-483.)".