

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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 WITHOUT the changes made by P.A. 89-7,
8 which 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 Persons or entities so named as respondents in discovery
16 shall be required to respond to discovery by the plaintiff in
17 the same manner as are defendants and may, on motion of the
18 plaintiff, be added as defendants if the evidence discloses the
19 existence of probable cause for such action.

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

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

26 Each respondent in discovery shall be paid expenses and
27 fees as provided for witnesses.

28 A person or entity named as a respondent in discovery in
29 any civil action may be made a defendant in the same action at
30 any time within 6 months after being named as a respondent in
31 discovery, even though the time during which an action may
32 otherwise be initiated against him or her may have expired

1 during such 6 month period. An extension from the original
 2 6-month period for good cause may be granted only once for up
 3 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
 4 good cause. Notwithstanding the limitations in this Section,
 5 the court may grant additional reasonable extensions from this
 6 6-month period for a failure or refusal on the part of the
 7 respondent to comply with timely filed discovery.

8 The plaintiff shall serve upon the respondent or
 9 respondents a copy of the complaint together with a summons in
 10 a form substantially as follows:

11 "STATE OF ILLINOIS

12 COUNTY OF

13 IN THE CIRCUIT COURT OF COUNTY, ILLINOIS

14 COUNTY DEPARTMENT, LAW DIVISION

15 (or, In the Circuit Court of the Judicial Circuit)

16

17 Plaintiff(s),

18 v.

No.

19

20,

21 Defendant(s),

22 and

PLEASE SERVE:

23

24,

25 Respondent(s) in Discovery.

26 SUMMONS FOR DISCOVERY

27 TO RESPONDENT IN DISCOVERY:

28 YOU ARE HEREBY NOTIFIED that on, 20.....,
 29 a complaint, a copy of which is attached, was filed in the

1 above Court naming you as a Respondent in Discovery. Pursuant
 2 to the Illinois Code of Civil Procedure Section 2-402 and
 3 Supreme Court Rules 201 et. seq., and/or Court Order entered on
 4, the above named
 5 Plaintiff(s) are authorized to proceed with the discovery of
 6 the named Respondent(s) in Discovery.

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

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

19 (serve the following interrogatories, request to produce, or
 20 other appropriate discovery tool upon Respondent,
 21 to be answered under oath by
 22 Respondent,, and delivered to the
 23 office of, Illinois, within
 24 28 days from date of service).

25 TO THE OFFICER/SPECIAL PROCESS SERVER:

26 This summons must be returned by the officer or other
 27 person to whom it was given for service, with endorsement or
 28 affidavit of service and fees and an endorsement or affidavit
 29 of payment to the Respondent of witness and mileage fees, if
 30 any, immediately after service. If service cannot be made, this
 31 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.)