



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB6308

by Rep. André M. Thapedi

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-402

from Ch. 110, par. 2-402

Amends the Civil Practice Law of the Code of Civil Procedure. In provisions requiring persons or entities named as respondents in discovery to respond to discovery in the same manner as defendants, adds language providing that discovery includes a request for admission of facts or of genuineness of documents. Provides that respondents in discovery may, on motion of the plaintiff, be added as defendants if a preponderance of the evidence discloses cause for such action (instead of "if the evidence discloses the existence of probable cause for such action"). Makes corresponding changes in the statutory summons to a respondent in discovery.

LRB098 22944 HEP 61898 b

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

13 Persons or entities so named as respondents in discovery  
14 shall be required to respond to discovery, including a request  
15 for admission of facts or of genuineness of documents, by the  
16 plaintiff in the same manner as are defendants and may, on  
17 motion of the plaintiff, be added as defendants if a  
18 preponderance of the evidence discloses ~~the existence of~~  
19 ~~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.

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

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

5 A person or entity named as a respondent in discovery in  
6 any civil action may be made a defendant in the same action at  
7 any time within 6 months after being named as a respondent in  
8 discovery, even though the time during which an action may  
9 otherwise be initiated against him or her may have expired  
10 during such 6 month period. An extension from the original  
11 6-month period for good cause may be granted only once for up  
12 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)  
13 good cause. Notwithstanding the limitations in this Section,  
14 the court may grant additional reasonable extensions from this  
15 6-month period for a failure or refusal on the part of the  
16 respondent to comply with timely filed discovery.

17 The plaintiff shall serve upon the respondent or  
18 respondents a copy of the complaint together with a summons in  
19 a form substantially as follows:

20 "STATE OF ILLINOIS

21 COUNTY OF .....

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

1 COUNTY DEPARTMENT, LAW DIVISION  
2 (or, In the Circuit Court of the ..... Judicial Circuit)

3 .....

4 Plaintiff(s),

5 v. No.

6 .....

7 .....,

8 Defendant(s),

9 and PLEASE SERVE:

10 .....

11 .....,

12 Respondent(s) in Discovery.

13 SUMMONS FOR DISCOVERY

14 TO RESPONDENT IN DISCOVERY:

15 YOU ARE HEREBY NOTIFIED that on ....., 20..... ,  
16 a complaint, a copy of which is attached, was filed in the  
17 above Court naming you as a Respondent in Discovery. Pursuant  
18 to the Illinois Code of Civil Procedure Section 2-402 and  
19 Supreme Court Rules 201 et. seq., and/or Court Order entered on  
20 ....., the above named  
21 Plaintiff(s) are authorized to proceed with the discovery of  
22 the named Respondent(s) in Discovery.

1           YOU ARE SUMMONED AND COMMANDED to appear for deposition,  
 2 before a notary public (answer the attached written  
 3 interrogatories), (respond to the attached request for  
 4 admission of facts or of genuineness of documents), (respond to  
 5 the attached request to produce), (or other appropriate  
 6 discovery tool).

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

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

22 TO THE OFFICER/SPECIAL PROCESS SERVER:

23 This summons must be returned by the officer or other

1 person to whom it was given for service, with endorsement or  
 2 affidavit of service and fees and an endorsement or affidavit  
 3 of payment to the Respondent of witness and mileage fees, if  
 4 any, immediately after service. If service cannot be made, this  
 5 summons shall be returned so endorsed.

6 WITNESS, .....

7 .....

8 Clerk of Court

9 Date of Service: ....., 20...

10 (To be inserted by officer on copy left  
 11 with Respondent or other person)

12 Attorney No.

13 Name:

14 Attorney for:

15 Address:

16 City/State/Zip:

17 Telephone:".

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

20 (Source: P.A. 94-582, eff. 1-1-06.)