

New York's AVOID Act Impacts Third-Party Action Practice: Could it Do More Harm than Good?

Hinshaw Alert | 3 min read

Jan 9, 2026

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“Aegrescit Medendo,” *Virgil: Aeneid Book XII*. That is: Sometimes healing makes the situation worse.

On December 19, 2025, New York Governor Kathy Hochul signed the AVOID Act (“Avoiding Vexatious Overuse of Impleading to Delay”), which implements significant changes to third-party litigation practice in New York (see [L 2025, ch 704](#); 2025 N.Y. Senate Bill [S8071A](#); 2025 N.Y. Assembly Bill [A08728](#)).

The AVOID Act substantially amends when third-party practice is allowed under New York’s Civil Practice Law and Rules (CPLR) § 1007.

What is Third-Party Practice?

Also known as impleader, third-party practice involves a claim filed by a defendant (“third-party plaintiff”) against a non-party (now a third-party defendant) who is or may be liable to the defendant for all or part of the claim.

New Timing Rules for Third-Party Practice

Pursuant to section (b)(1) of the AVOID Act, a defendant seeking to assert a claim against a third-party based on contract (e.g., indemnification or failure to procure insurance) must:

- File its third-party complaint within **60 days** of serving an answer.
- The timing for subsequent third-party complaints is more limited:
 - **45 days** for second, third-party plaintiffs;
 - **30 days** for third, third-party plaintiffs; and
 - **20 days** for any subsequent third-party plaintiffs.

Common Law Indemnification and Contribution Claims

For common law indemnification claims and contribution claims, defendants must interpose a third-party complaint within **60 days** after learning that the proposed third-party defendant may be liable.

Third-party complaints against the plaintiff's employer have an extended deadline, allowing defendants to bring that third-party action within **120 days** after the employer's identity is ascertained. Deadlines for subsequent third-party complaints would remain the same under either scenario.

Deadline Extensions and Post-Note of Issue Bar

The AVOID Act allows parties to extend the above deadlines by **30 days**; however, any further extension requires court approval. There are also strict 12-month limits absent consent and court approval, and no impleaders post-Note of Issue. Any third-party complaint filed in violation of these time limitations could result in severance without the possibility of consolidation or potentially even dismissal.

When Does the AVOID Act Go Into Effect?

- The AVOID Act is set to take effect on Saturday, April 19, 2026, 120 days after Governor Hochul's signature. Even though the deadline is on a weekend, the effective date of statutes does not generally roll over to the next business day.
- The AVOID Act applies to all pending lawsuits; however, the above time limitations do not apply to any third-party action filed prior to the effective date.

What Are the AVOID Act's Key Changes?

- Prior to the AVOID Act, New York did not have a specific time limitation for third-party practice unless the third-party action, in the court's discretion, would cause undue delay. (see CPLR § 1010).
- CPLR § 1010 and long-standing case law precedent are now seemingly obsolete, given the AVOID Act's specific time limitations on when a defendant can bring a third-party action and when that third-party defendant can bring its own third-party action.
- The AVOID Act focuses on controlling purported abusive litigants and is designed to limit the judiciary's traditional role of helping to balance fairness, efficiency, and economies in each case.

Compliance Implications for Insurers and Defense Counsel

In practice, the AVOID Act compels defendants, insurers, and insureds to quickly investigate and decide whether to bring contractual and common law indemnity third-party actions.

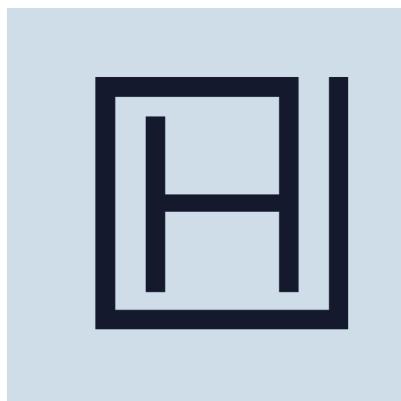
Haste seems certain to increase litigation costs, reduce early settlements, and may also add unnecessary parties, bar necessary parties, increase motion practice, and proliferate discovery proceedings where situations involve evolving injuries and damages, labor law accidents, excess insurance coverage, contractual indemnity, and subrogation—in other words, the prospect of taking more time, not less, to resolve cases.

As such, to comply with the new AVOID Act, it is imperative for insurers to:

- Update claims handling practices consistent with these new rules and timelines;
- Make an early assessment on third-party actions in future litigation; and
- Coordinate with defense counsel on active lawsuits to review all pending files for potential third-party practice as quickly as possible.

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