



## What NY Subcontractors Need to Know About New NY Legislation Re: Third Party Litigation Effective April 18, 2026

### IN A NUTSHELL:

New York's **AVOID Act** (effective 4/18/26) changes how and when defendants can bring third parties (e.g., General Contractors, vendors) into a lawsuit.

### KEY CHANGE - WHAT MATTERS MOST:

Contractors now have a strict 90-day deadline to bring in third parties, after your Answer is filed in a lawsuit.

- This deadline is firm and will be strictly enforced
- Waiting for tender responses does NOT extend the deadline
- Missing the deadline can result in permanent loss of indemnity and contribution rights

## What is the AVOID Act?

### Avoiding Vexatious Overuse of Impleading to Delay (AVOID) Act 2025

This law amends CPLR §1007 to establish strict time limits for impleading third party defendants in civil actions. The purpose of the law is to prevent strategic delays in litigation by ensuring impleaders occur early in civil proceedings. The Legislature amended the act, and on February 13, 2026, Gov. Hochul signed S.8809 which became effective April 18, 2026.

This amendment does away with the 60-, 45-, 30-, 20-day deadline and replaces it with a single 90-day deadline for filing a third-party complaint. The AVOID Act mandates that a third-party summons and complaint cannot be filed more than 90 days after serving an answer “without any order of the court.” Additionally, the amendment changes post note-of-issue impleader practice by mandating that no third-party summons and complaint may be filed after the note-of-issue “unless upon good cause shown or in the interest of justice.” The AVOID Act now states that a third-party summons and complaint may be filed against the plaintiff’s employer “without an order of the court” within 90 days of: (1) learning the identity of the plaintiff’s employer; or (2) the date the defendant knew or should have known the plaintiff suffered a grave injury. Additionally, the amended AVOID Act continues to prohibit consolidation of severed third-party actions.

For contractors and construction clients, this Act represents one of the most significant procedural reforms in decades. The Act only applies to cases filed on or after April 18, 2026 pending cases remain governed by prior third-party practice rules.

Early investigation remains the cornerstone of an effective defense, enabling the identification of all potentially liable parties and supporting the timely approval of indemnity and third-party impleader decisions.

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Key details of the legislation and links to the official bill text are provided below:

- Bill Number (Original): S8071-A / A08728
- Chapter Amendment (Signed Feb 13, 2026): S8809
- Effective Date: April 18, 2026 (applies to actions commenced on or after this date)
- Official Link to Bill Text (S8809 - Finalized): [New York State Senate Bill 2025-S8809](#)
- Official Link to Assembly Bill (A08728): [NY State Assembly Bill A08728](#)



## What This Means for Subcontractors

### 1. You Will Be Brought into Lawsuits Earlier

Contractors can no longer wait to investigate or resolve claims before taking action.

- As a result, you may be:
- Named in lawsuits much earlier than before
- Included even when facts are still developing

### 2. More “Protective” Lawsuits

To avoid missing the deadline, contractors will often:

- Name all potentially involved subcontractors
- Do so before liability is fully determined

This means you may be brought into claims:

- As a precaution
- Even if your responsibility is unclear

### 3. Less Opportunity to Avoid Litigation Through Tender

Previously, many claims could be resolved through insurance tender discussions before litigation.

*Now:*

- Contractors must file suit first to preserve their rights
- Tender discussions continue afterward

*Result:*

- You may face litigation and insurance tender at the same time

### 4. Earlier Legal and Insurance Involvement

You should expect:

- Earlier notice to your insurance carrier
- Faster involvement of defense counsel
- Participation in litigation earlier in the process

This will increase legal costs & administrative burden

### 5. Contracts and Insurance Will Be Scrutinized Immediately

Because decisions must be made quickly, contractors and insurers will rely heavily on:

- Your contract terms
- Indemnification obligations
- Additional insured coverage

If documentation is unclear or unavailable, it will Delay your defense/Increase your exposure/  
Cost More in Legal Expenses

### 6. Report Claims Immediately - At the first sign of a claim or lawsuit:

- Notify your broker and insurance carrier right away
- Provide all relevant documentation early along with immediate comprehensive investigation
- Subcontracts/Certificates of Insurance/Additional Insured endorsements/  
Your indemnification obligations/scope of work details and timelines



## What You Should Do Now: Organize Your Contracts and Insurance Documents

### Be prepared to immediately provide all of the following:

- Subcontracts & Sub-Subcontracts
- Certificates of Insurance
- Additional insured endorsements - Coverage aligns with your contractual obligations
- Your indemnification obligations - Avoid overly broad or unclear provisions where possible
- Scope of work details and timelines

## How American Global Is Supporting You

We are helping our subcontractor clients by:

- Seek an extension of time to answer while coordinating with carriers and counsel to protect your position
- Assisting with early claim response strategies – helping to guide clients with required documentation and comprehensive investigations which will aid in assisting defense counsels with potential pre-answer motions to dismiss – This law was designed with the legislative intent to help move cases along so we are hopeful that the courts will give strong consideration to Pre-Answer motions which are due within 20-30 days of service.

**This law means subcontractors will be brought into claims earlier/more frequently/  
often before full facts are known = More expense dollars**

**Being prepared—with clear contracts, proper insurance, and organized  
documentation—is the best way to protect your business.**

Aggressive and complete investigation, documentation, rigorous recordkeeping, and proactive litigation management will be essential to preserving risk-transfer rights and protecting clients from unnecessary exposure to prolonged and costly litigation.

### Questions? Contact:

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