



## What General Contractors 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., subcontractors, 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](#)



## For our GC construction clients, this is critical:

### 1. Risk Transfer Can Be Lost Early

If third parties (subs, vendors, employers) are not brought into the case within 90 days, you may lose the ability to:

- Shift liability
- Access additional insurance
- Recover defense/indemnity costs

### 2. Claims Must Move Faster Than Ever

You can no longer:

- Fully investigate first
- Then tender
- Then decide whether to bring in other parties

Instead, actions must happen in parallel and immediately

### 3. More Upfront Litigation Activity

To preserve rights, parties may need to:

- File “protective” third-party actions early
- Identify all potentially responsible parties at the outset

## To protect your position under the new law, we recommend:

### At the Start of Any Claim:

- Identify all potentially responsible parties immediately
- Gather all contracts and insurance documents upfront
- Share documentation with your broker and counsel early

### During Early Litigation:

- Track the Answer date and 90-day deadline
- Do not wait for tender responses before acting
- Coordinate early with all carriers (primary and excess)

### Operationally:

- Maintain centralized access to:
  - Contracts
  - Certificates of insurance
  - Vendor/subcontractor records
- Ensure indemnification language in contracts is clear and enforceable



## How American Global is Helping

We are actively supporting our clients by:

- Tracking AVOID Act deadlines on active claims
- Coordinating early risk transfer strategy with counsel and carriers
- Working to ensure all potential recovery avenues are preserved

### **This law changes the playbook:**

**Delays in identifying and pursuing third parties can now result in lost recovery rights.**

Early action is no longer best practice — it is required. Several GC defense counsel have already implemented procedures to immediately file 3<sup>rd</sup> party actions for all subs even before tenders are sent to avoid the risk of missing the deadline.

### **The AVOID Act transforms claims handling from:**

**“Investigate → Tender → Litigate” to “Identify → Implead → Then Investigate & Negotiate”**

The AVOID Act will likely result in an increase in early third-party practice, often before a complete investigation can identify all potentially responsible parties. As a result, careful 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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