

to engage in alternative dispute resolution, then the prospective plaintiff shall allow the prospective defendant an additional 60 days from the end of the 30-day notice period to complete the proposed remedial action or alternative dispute resolution before commencing a legal action against that prospective defendant.

(2) Extension by agreement

The prospective plaintiff and prospective defendant may change the length of the 60-day remediation period by written agreement.

(3) Multiple extensions not allowed

Except as provided in paragraph (2), a defendant in a Y2K action is entitled to no more than one 30-day period and one 60-day remediation period under paragraph (1).

(4) Statutes of limitation, etc., tolled

Any applicable statute of limitations or doctrine of laches in a Y2K action to which paragraph (1) applies shall be tolled during the notice and remediation period under that paragraph.

(f) Failure to provide notice

If a defendant determines that a plaintiff has filed a Y2K action without providing the notice specified in subsection (a) or without awaiting the expiration of the appropriate waiting period specified in subsection (c), the defendant may treat the plaintiff's complaint as such a notice by so informing the court and the plaintiff in its initial response to the plaintiff. If any defendant elects to treat the complaint as such a notice—

- (1) the court shall stay all discovery and all other proceedings in the action for the appropriate period after filing of the complaint; and
- (2) the time for filing answers and all other pleadings shall be tolled during the appropriate period.

(g) Effect of contractual or statutory waiting periods

In cases in which a contract, or a statute enacted before January 1, 1999, requires notice of nonperformance and provides for a period of delay prior to the initiation of suit for breach or repudiation of contract, the period of delay provided by contract or the statute is controlling over the waiting period specified in subsections (c) and (d).

(h) State law controls alternative methods

Nothing in this section supersedes or otherwise preempts any State law or rule of civil procedure with respect to the use of alternative dispute resolution for Y2K actions.

(i) Provisional remedies unaffected

Nothing in this section interferes with the right of a litigant to provisional remedies otherwise available under Rule 65 of the Federal Rules of Civil Procedure or any State rule of civil procedure providing extraordinary or provisional remedies in any civil action in which the underlying complaint seeks both injunctive and monetary relief.

(j) Special rule for class actions

For the purpose of applying this section to a Y2K action that is maintained as a class action

in Federal or State court, the requirements of the preceding subsections of this section apply only to named plaintiffs in the class action.

(Pub. L. 106-37, § 7, July 20, 1999, 113 Stat. 196.)

REFERENCES IN TEXT

Section 3(7) of the Year 2000 Information and Readiness Disclosure Act, referred to in subsec. (b)(3), is section 3(7) of Pub. L. 105-271, which was formerly set out in a note under section 1 of this title.

The Federal Rules of Evidence, referred to in subsec. (c)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Civil Procedure, referred to in subsec. (i), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6607. Pleading requirements

(a) Application with rules of civil procedure

This section applies exclusively to Y2K actions and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal or State civil procedure.

(b) Nature and amount of damages

In all Y2K actions in which damages are requested, there shall be filed with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation.

(c) Material defects

In any Y2K action in which the plaintiff alleges that there is a material defect in a product or service, there shall be filed with the complaint a statement of specific information regarding the manifestations of the material defects and the facts supporting a conclusion that the defects are material.

(d) Required state of mind

In any Y2K action in which a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, there shall be filed with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(Pub. L. 106-37, § 8, July 20, 1999, 113 Stat. 198.)

REFERENCES IN TEXT

Rules of Federal civil procedure, referred to in subsec. (a), are contained in the Federal Rules of Civil Procedure which are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6608. Duty to mitigate

(a) In general

Damages awarded in any Y2K action shall exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was, or reasonably should have been, aware, including information made available by the defendant to purchasers or users of the defendant's product or services concerning means