

NEW YORK'S AVOID ACT:

What Construction Businesses and Their Representatives Need to Know

New York's Avoiding Vexatious Overuse of Impleading to Delay Act (AVOID Act), effective for cases filed on or after April 18, 2026, represents one of the most significant procedural shifts in New York construction litigation in recent years. The legislation fundamentally changes how and when parties may be brought into a lawsuit, creating accelerated timelines that demand earlier investigation, faster decision-making, and more strategic coordination among project stakeholders.

For construction businesses, the impact extends well beyond litigation strategy. The AVOID Act directly affects incident response protocols, contract administration, insurance tenders, and risk transfer practices. In today's environment, organizations that move quickly and collaboratively following a loss will be best positioned to preserve their legal rights and control claim exposure.

WHAT CHANGED

The AVOID Act amends New York Civil Practice Law and Rules (CPLR § 1007) by replacing the historically flexible impleader process with strict statutory deadlines for bringing additional parties into litigation.

Under the new framework, third-party actions generally must be filed within 90 days after service of an answer, with similarly strict timelines applying at every subsequent tier of litigation. The intent of the legislation is to reduce delays caused by late identification of responsible parties and to streamline litigation proceedings.

The practical effect is clear: construction claims will now require much earlier analysis of liability, contractual obligations, indemnification rights, and downstream insurance coverage.

WHY IT MATTERS

The compressed litigation timeline significantly raises the stakes for early claim management. Delays in identifying responsible parties, reviewing contracts, or tendering claims may result in forfeited indemnity and contribution rights.

Construction organizations should expect:

- Earlier and more intensive claim investigations
- Faster coordination among insurers, brokers, counsel, and project teams
- Accelerated review of contracts and insurance provisions
- Increased emphasis on documentation preservation
- Potential early-stage legal expenses to protect downstream recovery opportunities

While the Act may increase activity in the early stages of litigation, it could also shorten overall case duration and improve opportunities for earlier resolution.

RECOMMENDED RISK MANAGEMENT PROTOCOLS

IMMEDIATE POST-LOSS RESPONSE

Following any significant incident or lawsuit, contractors and subcontractors should immediately identify all potentially involved parties and preserve critical project documentation. Early investigation efforts should include:

- Collection and review of all contracts and subcontracts
- Preservation of photographs, site logs, inspection reports, and incident documentation
- Review of supervisory records and safety protocols
- Early analysis of means and methods responsibilities
- Prompt identification of all entities potentially subject to risk transfer obligations

ENHANCED CONTRACT REVIEW PROCEDURES

The AVOID Act places increased importance on rapid contract analysis. Brokers, insurers, defense counsel, risk managers, and project leadership should collaborate early to evaluate:

- Indemnification provisions
- Additional insured requirements
- Notice obligations
- Downstream insurance coverage
- Potential contractual risk transfer opportunities

Waiting until litigation develops may no longer be sufficient under the new statutory framework.

PROACTIVE CONTRACT DRAFTING

The strongest defense against accelerated litigation timelines begins before a project starts. Construction businesses should review and update contract templates to ensure:

- Clear indemnification language
- Proper additional insured wording
- Defined notice and reporting obligations
- Procedures for timely identification of responsible parties
- Alignment between contractual obligations and insurance program structure

Well-drafted contracts not only strengthen risk transfer but also improve operational readiness when claims arise.

LITIGATION COORDINATION

Early coordination among all stakeholders will be critical under the AVOID Act. Timely communication between project teams, brokers, insurers, claims professionals, and defense counsel can help:

- Preserve evidence
- Streamline investigation efforts
- Identify risk transfer opportunities early
- Avoid missed statutory deadlines
- Improve litigation positioning and settlement leverage





TIMELY ACTION IS CRITICAL

Failure to comply with the AVOID Act's deadlines may significantly impair a party's ability to pursue indemnification or contribution claims against other responsible entities. Missed deadlines could increase uninsured exposure, weaken settlement leverage, and create unnecessary litigation costs.

In this new environment, proactive claims management is no longer simply best practice. It is essential risk protection.

THE CONNER STRONG & BUCKELEW ADVANTAGE

At Conner Strong & Buckelew, we closely monitor evolving litigation and regulatory developments that impact our clients' operations and risk profiles. The AVOID Act is a prime example of how procedural changes can materially affect construction claim outcomes, contractual risk transfer, and insurance recovery strategies.

Our team works proactively with construction clients to:

- Review and strengthen contractual risk transfer language
- Align insurance programs with evolving litigation exposures
- Coordinate early claim response and investigation strategies
- Facilitate collaboration among insurers, counsel, and project stakeholders
- Support clients through accelerated litigation timelines and claim resolution efforts

By combining claims advocacy, construction risk expertise, and strategic coordination, we help clients stay ahead of emerging risks and protect their interests throughout the claim lifecycle.

ADDITIONAL RESOURCES

For a more comprehensive legal analysis of the AVOID Act, please review the following articles from Lewis Brisbois:

[The New York State Legislature Has Drastically Changed Third-Party Practice](#)

[Navigating the Amendments to New York's AVOID Act](#)

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