

# STATE OF NEW YORK

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9652--B

Cal. No. 776

## IN ASSEMBLY

(Prefiled)

January 9, 2008

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Introduced by M. of A. LANCMAN, JAFFEE, K. ZEBROWSKI, FIELDS, ALFANO --  
Multi-Sponsored by -- M. of A. KOON, LIFTON, McDONOUGH, PAULIN -- read  
once and referred to the Committee on Judiciary -- committee  
discharged, bill amended, ordered reprinted as amended and recommitted  
to said committee -- reported from committee, advanced to a third  
reading, amended and ordered reprinted, retaining its place on the  
order of third reading

AN ACT to amend the civil practice law and rules, in relation to  
enforceability of certain foreign judgments

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

- 1 Section 1. Short title. This act shall be known and may be cited as  
2 the "libel terrorism protection act".  
3 § 2. Section 5304 of the civil practice law and rules, as added by  
4 chapter 981 of the laws of 1970, is amended to read as follows:  
5 § 5304. Grounds for non-recognition. (a) No recognition. A foreign  
6 country judgment is not conclusive if:  
7 1. the judgment was rendered under a system which does not provide  
8 impartial tribunals or procedures compatible with the requirements of  
9 due process of law;  
10 2. the foreign court did not have personal jurisdiction over the  
11 defendant.  
12 (b) Other grounds for non-recognition. A foreign country judgment need  
13 not be recognized if:  
14 1. the foreign court did not have jurisdiction over the subject  
15 matter;  
16 2. the defendant in the proceedings in the foreign court did not  
17 receive notice of the proceedings in sufficient time to enable him to  
18 defend;  
19 3. the judgment was obtained by fraud;  
20 4. the cause of action on which the judgment is based is repugnant to  
21 the public policy of this state;  
22 5. the judgment conflicts with another final and conclusive judgment;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 6. the proceeding in the foreign court was contrary to an agreement  
2 between the parties under which the dispute in question was to be  
3 settled otherwise than by proceedings in that court; [or]

4 7. in the case of jurisdiction based only on personal service, the  
5 foreign court was a seriously inconvenient forum for the trial of the  
6 action[.]; or

7 8. the cause of action resulted in a defamation judgment obtained in a  
8 jurisdiction outside the United States, unless the court before which  
9 the matter is brought sitting in this state first determines that the  
10 defamation law applied in the foreign court's adjudication provided at  
11 least as much protection for freedom of speech and press in that case as  
12 would be provided by both the United States and New York constitutions.

13 § 3. Section 302 of the civil practice law and rules is amended by  
14 adding a new subdivision (d) to read as follows:

15 (d) Foreign defamation judgment. The courts of this state shall have  
16 personal jurisdiction over any person who obtains a judgment in a defa-  
17 mation proceeding outside the United States against any person who is a  
18 resident of New York or is a person or entity amenable to jurisdiction  
19 in New York who has assets in New York or may have to take actions in  
20 New York to comply with the judgment, for the purposes of rendering  
21 declaratory relief with respect to that person's liability for the judg-  
22 ment, and/or for the purpose of determining whether said judgment should  
23 be deemed non-recognizable pursuant to section fifty-three hundred four  
24 of this chapter, to the fullest extent permitted by the United States  
25 constitution, provided:

26 1. the publication at issue was published in New York, and  
27 2. that resident or person amenable to jurisdiction in New York (i)  
28 has assets in New York which might be used to satisfy the foreign defa-  
29 mation judgment, or (ii) may have to take actions in New York to comply  
30 with the foreign defamation judgment. The provisions of this subdivision  
31 shall apply to persons who obtained judgments in defamation proceedings  
32 outside the United States prior to and/or after the effective date of  
33 this subdivision.

34 § 4. This act shall take effect immediately.