



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3617

Introduced 2/11/2010, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. II Pt. 23 heading new
735 ILCS 5/2-2301 new

Amends the Code of Civil Procedure. Provides that any civil action based upon a legal theory of civil conspiracy, concert of action, or aiding and abetting may not be established merely by alleging a defendant's alleged participation in the conspiracy alone and that such an action shall be dismissed as a matter of law if the court concludes that the defendant did not owe a legal duty of care to the plaintiff. Provides that no defendant shall be liable under any of those theories unless the underlying tortious conduct is known to the defendant to be the purpose of the agreement giving rise to the action and intentionally committed by a party to the concerted action or agreement. Provides that these changes apply to all pending civil actions and to all actions filed on or after the effective date of the amendatory Act, provided that the changes do not apply to a civil action in which the trial began prior to that effective date. Effective immediately.

LRB096 18063 AJO 33437 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding
5 Part 23 to Article II as follows:

6 (735 ILCS 5/Art. II Pt. 23 heading new)

7 PART 23. CONSPIRACY, CONCERT OF
8 ACTION AND AIDING AND ABETTING

9 (735 ILCS 5/2-2301 new)

10 Sec. 2-2301. Pre-existing legal duty required in civil
11 actions alleging conspiracy, concert of action, or aiding and
12 abetting.

13 (a) Any civil action based upon a legal theory of civil
14 conspiracy, concert of action, or aiding and abetting may not
15 be established merely upon a defendant's alleged participation
16 in the conspiracy alone, and any such action shall be dismissed
17 as to any defendant who the court concludes, as a matter of law
18 or fact, did not prior to the conspiracy owe a legal duty of
19 care to the plaintiff.

20 (b) No defendant shall be liable in any civil action based
21 upon a legal theory of civil conspiracy, concert of action, or
22 aiding and abetting unless the underlying tortious conduct is:

1 (1) known to the defendant to be the purpose of the
2 agreement or assistance giving rise to the action; and

3 (2) intentionally committed by a party to the concerted
4 action or agreement.

5 (c) This Section shall apply to every civil action, whether
6 the action was commenced prior to or on or after the effective
7 date of this amendatory Act of the 96th General Assembly.
8 Notwithstanding the foregoing, however, this Section shall not
9 apply to any civil action in which the trial commenced prior to
10 the effective date of this amendatory Act of the 96th General
11 Assembly. For purposes of the preceding sentence, a jury trial
12 shall be deemed to have commenced when the jury is empanelled,
13 and a bench trial shall be deemed to have commenced when
14 opening statements begin.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.