

CHAPTER 149

COURTS

HOUSE BILL 03-1186

BY REPRESENTATIVE(S) Mitchell, Brophy, Miller, Spence, and Stengel;
also SENATOR(S) Teck, Evans, Hillman, and McElhany.

AN ACT**CONCERNING THE ASSERTION OF CLAIMS FOR EXEMPLARY DAMAGES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-21-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-21-102. Exemplary damages. (1.5) (a) A CLAIM FOR EXEMPLARY DAMAGES IN AN ACTION GOVERNED BY THIS SECTION MAY NOT BE INCLUDED IN ANY INITIAL CLAIM FOR RELIEF. A CLAIM FOR EXEMPLARY DAMAGES IN AN ACTION GOVERNED BY THIS SECTION MAY BE ALLOWED BY AMENDMENT TO THE PLEADINGS ONLY AFTER THE EXCHANGE OF INITIAL DISCLOSURES PURSUANT TO RULE 26 OF THE COLORADO RULES OF CIVIL PROCEDURE AND THE PLAINTIFF ESTABLISHES PRIMA FACIE PROOF OF A TRIABLE ISSUE. AFTER THE PLAINTIFF ESTABLISHES THE EXISTENCE OF A TRIABLE ISSUE OF EXEMPLARY DAMAGES, THE COURT MAY, IN ITS DISCRETION, ALLOW ADDITIONAL DISCOVERY ON THE ISSUE OF EXEMPLARY DAMAGES AS THE COURT DEEMS APPROPRIATE.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1.5) SHALL NOT APPLY TO ANY CIVIL ACTION OR ARBITRATION PROCEEDING DESCRIBED IN SECTION 13-21-203 (3) (c) OR 13-64-302.5 (3).

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to causes of action accruing on or after the applicable effective date of this act.

Approved: April 17, 2003