

Regular Session, 2014

HOUSE BILL NO. 607

BY REPRESENTATIVE ABRAMSON

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 1035, 1425(C), and 1462(B)(1),  
3 relative to the continuous revision of the Code of Civil Procedure; to provide for the  
4 delay in filing an answer in incidental actions; to provide for the identification of  
5 testifying experts in discovery; to extend the delay for the state to respond to a  
6 request for the production of documents and things; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Civil Procedure Articles 1035, 1425(C), and 1462(B)(1) are  
10 hereby amended and reenacted to read as follows:

11 Art. 1035. Answer

12 The answer in an incidental action shall be filed within the delay allowed by  
13 Article 1001, ~~or at any time prior to a judgment by default against the defendant in~~  
14 ~~the incidental action~~, and shall be subject to all of the rules set forth in Articles 1001  
15 and 1003 through 1006.

16 Comment – 2014

17 The 2014 amendment to this Article conforms with the rules for answering  
18 incidental demands to those provided for the principal demand.

19 \* \* \*

20 Art. 1425. Experts; pretrial disclosures; scope of discovery

21 \* \* \*

22 C. ~~The~~ If the court orders the disclosures of Paragraph B of this Article, they  
23 shall be made at the times and in the sequence directed by the court. In the absence

1 of ~~other~~ directions from the court or stipulation by the parties, the disclosures  
 2 ~~required~~ ordered pursuant to Paragraph B of this Article shall be made at least ninety  
 3 days before the trial date or, if the evidence is intended solely to contradict or rebut  
 4 evidence on the same subject matter identified by another party under Paragraph B  
 5 of this Article, within thirty days after the disclosure made by the other party. The  
 6 parties shall supplement these disclosures when required by Article 1428.

7 \* \* \*

8 Comments - 2014

9 (a) Contrary to *Quillian v. The Dixie Bonded Warehouse*, 105 So.3d 71 (La.  
 10 App. 2d Cir. 8/29/12), Article 1425 does not require a party, absent a discovery  
 11 request or an order requiring an expert report, to identify testifying experts.

12 (b) The identification of testifying expert witnesses is obtained by  
 13 interrogatories, depositions, requirements in a scheduling order entered pursuant to  
 14 Article 1551(A)(5) or (8), or by court order under Paragraph B. The preparation and  
 15 submission of reports of testifying experts is required only if ordered by the court  
 16 pursuant to Paragraph (B). If expert reports are ordered, the court should set  
 17 production deadlines in the order; however, if there is no deadline set in the order,  
 18 then the sequence provided in Paragraph (C) applies by default.

19 \* \* \*

20 Art. 1462. Production of documents and things; entry upon land; procedure

21 \* \* \*

22 B.(1) The party upon whom the request is served shall serve a written  
 23 response within fifteen days after service of the request, except that a defendant may  
 24 serve a response within thirty days after service of the petition upon that defendant,  
 25 and except that the state and its political subdivisions may serve a response within  
 26 thirty days after service of the request. The court may allow a shorter or longer time.  
 27 With respect to each item or category, the response shall state that inspection and  
 28 related activities will be permitted as requested, unless the request is objected to, in  
 29 which event the reasons for objection shall be stated. If objection is made to part of  
 30 an item or category, the part shall be specified. The written answer or reasons for  
 31 objection to each request for production of documents shall immediately follow a  
 32 restatement of the request for production of documents to which the answer or  
 33 objection is responding. The party submitting the request may move for an order  
 34 under Article 1469 with respect to any objection to or other failure to respond to the

1 request, or any part thereof, or any failure to permit inspection as requested. If  
 2 objection is made to the requested form or forms for producing information,  
 3 including electronically stored information, or if no form was specified in the  
 4 request, the responding party shall state in its response the form or forms it intends  
 5 to use.

\* \* \*

Comment - 2014

8 The 2014 amendment to Paragraph B extends the period for the state and its  
 9 political subdivisions to respond to a request from fifteen days to thirty days so as  
 10 to coincide with the period provided in Article 1458 for responses to interrogatories.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_