

RÉSUMÉ DIGEST

ACT 147 (SB 40)

2023 Regular Session

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New law authorizes the use of motions and exceptions by any party in matters before the Ethics Adjudicatory Board. Provides procedure for the use of a motion for summary judgment.

New law authorizes a motion for summary judgment to be filed by the Board of Ethics or the respondent without leave of the Ethics Adjudicatory Board and without an agreement by any other party to the use of summary judgment procedure, at any time before, during, or after a public hearing on the merits.

New law provides that after a period of adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to a material fact and that the mover is entitled to judgment as a matter of law.

New law provides that only the documents listed in the Code of Civil Procedure provisions relative to documents, including affidavits, that may be filed in support of or opposition to a motion for summary judgment.

New law provides that the burden of proof is on the mover and further provides the burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law.

New law authorizes the Ethics Adjudicatory Board to render summary judgment dispositive of a particular issue or defense in favor of one or more parties even though the granting of the summary judgment does not dispose of the entire matter as to that party or parties. Further provides that the Ethics Adjudicatory Board may render or affirm summary judgment only as to those issues set forth in the motion under consideration by the board at that time.

New law requires the Ethics Adjudicatory Board to transmit notice of the hearing on the motion for summary judgment to the Board of Ethics through the secured electronic file transfer system and to the respondent through his counsel of record, or if no counsel of record, to the respondent, by either email or regular mail to the last known email or mailing address provided by the respondent's counsel of record or respondent to the Ethics Adjudicatory Board.

New law provides that a denial of a motion for summary judgment is an interlocutory judgment and is not appealable pursuant to existing law.

Effective August 1, 2023.

(Adds R.S. 42:1141.7 and 1141.8)