

Regular Session, 2012

HOUSE BILL NO. 459

BY REPRESENTATIVE ABRAMSON

CIVIL/PROCEDURE: Provides relative to motions for summary judgment

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 966(B), (E), and (F), relative to
3 motions for summary judgment; to provide for evidence which may be considered
4 under certain circumstances; to provide for the inclusion of certain information in
5 judgments; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 966(B), (E), and (F) are hereby amended
8 and reenacted to read as follows:

9 Art. 966. Motion for summary judgment; procedure

10 * * *

11 B.(1) The motion for summary judgment, memorandum in support thereof,
12 and supporting affidavits shall be served within the time limits provided in District
13 Court Rule 9.9. For good cause, the court shall give the adverse party additional
14 time to file a response, including opposing affidavits or depositions. The adverse
15 party may serve opposing affidavits, and if such opposing affidavits are served, the
16 opposing affidavits and any memorandum in support thereof shall be served pursuant
17 to Article 1313 within the time limits provided in District Court Rule 9.9.

18 (2) The judgment sought shall be rendered forthwith if the pleadings,
19 depositions, answers to interrogatories, and admissions ~~on file~~, together with the

1 affidavits, if any, show that there is no genuine issue as to material fact, and that
2 mover is entitled to judgment as a matter of law.

3 * * *

4 E.(1) A summary judgment may be rendered dispositive of a particular issue,
5 theory of recovery, cause of action, or defense, in favor of one or more parties, even
6 though the granting of the summary judgment does not dispose of the entire case;
7 however, a summary judgment shall be rendered or affirmed only as to those issues
8 set forth in the motion under consideration by the court at that time.

9 (2) Only evidence admitted for purposes of the motion for summary
10 judgment shall be considered by the court in its ruling on the motion.

11 F.(1) When the court determines, in accordance with the provisions of this
12 Article, that a party or nonparty is not negligent, not at fault, or did not cause,
13 whether in whole or in part, the injury or harm alleged, that party or nonparty ~~may~~
14 shall not be considered in any subsequent allocation of fault. Evidence shall not be
15 admitted at trial to establish the fault of that party or nonparty nor shall the issue be
16 submitted to the jury nor included on the jury verdict form. This Paragraph shall not
17 apply when a summary judgment is granted solely on the basis of the successful
18 assertion of an affirmative defense in accordance with Article 1005, except for
19 negligence or fault.

20 (2) If the provisions of this Paragraph are applicable to the summary
21 judgment, the court shall so specify in the judgment.

22 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

HB No. 459

Abstract: Provides that only certain evidence may be considered in a motion for summary judgment and prohibits certain evidence from being considered by a court in subsequent allocations of fault.

Present law provides that a judgment on a motion for summary judgment shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law.

Proposed law deletes the requirement that the pleadings, depositions, answers to interrogatories, and admissions be on file.

Present law provides that a summary judgment shall be rendered or affirmed only as to those issues set forth in the motion under consideration by the court at that time.

Proposed law requires that only evidence admitted for purposes of the motion for summary judgment shall be considered by the court in its ruling on the motion.

Present law provides that a party or nonparty whom the court determines to be not negligent or at fault may not be considered in any subsequent allocation of fault, and prohibits evidence from being admitted at trial to establish the fault of that party or nonparty or from submitting the issue to the jury.

Proposed law prohibits a party or nonparty whom the court determines to be not negligent or at fault from being considered in any subsequent allocation of fault.

Proposed law prohibits the issue of allocation of fault relative to the party or nonparty determined to be not at fault from being included on the jury verdict form.

Proposed law requires the court to specify in its judgment that a party or nonparty has been determined to be not at fault and that the party or nonparty is prohibited from being considered in any subsequent allocation of fault.

(Amends C.C.P. Art. 966(B), (E), and (F))