

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

22 * * *

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, and provides that proposed law shall not apply if the court fails to specify the applicability of proposed law.

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added a provision to prevent the application of proposed law if the court fails to so specify whether proposed law is applicable.