2016 Regular Session

HOUSE BILL NO. 1098

BY REPRESENTATIVE JAY MORRIS

CIVIL/MOTIONS: Provides relative to motions for summary judgment

1	AN ACT		
2	To amend and reenact Code of Civil Procedure Article 966(A)(4), (B)(1), (C)(1), and (D)(2),		
3	relative to motions for summary judgment; to provide for the filing of new		
4	allegations and certain documents; to authorize the reference of certain documents		
5	filed in the court record; to provide for the filing and hearing of amended motions		
6	for summary judgment; and to provide for related matters.		
7	Be it enacted by the Legislature of Louisiana:		
8	Section 1. Code of Civil Procedure Article 966(A)(4), (B)(1), (C)(1), and (D)(2) are		
9	hereby amended and reenacted to read as follows:		
10	Art. 966. Motion for summary judgment; procedure		
11	А.		
12	* * *		
13	(4) The only documents that may be filed in support of or in opposition to		
14	the motion are pleadings and exhibits attached to the pleadings, documents attached		
15	to the motion, memoranda, affidavits including properly authenticated documents		
16	attached to or referenced in the affidavit, depositions including properly		
17	authenticated documents attached to or referenced in the deposition, answers to		
18	interrogatories, certified medical records, written stipulations, and admissions. The		
19	court may permit documents to be filed in any electronically stored format		
20	authorized by court rules or approved by the clerk of the court.		

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	B. Unless extended by the court and agreed to by all of the parties, a motion		
2	for summary judgment shall be filed, opposed, or replied to in accordance with the		
3	following provisions:		
4	(1) A motion for summary judgment, including any motion for summary		
5	judgment that has been amended or supplemented, and all documents in support of		
6	the motion shall be filed and served on all parties in accordance with Article 1313		
7	not less than sixty-five days prior to the trial.		
8	* * *		
9	C.(1) Unless otherwise agreed to by all of the parties and the court:		
10	(a) A contradictory hearing on the motion for summary judgment or		
11	amended motion for summary judgment shall be set not less than thirty days after the		
12	filing and not less than thirty days prior to the trial date.		
13	(b) If a contradictory hearing on a motion for summary judgment is set more		
14	than thirty days after filing the motion, the motion may be amended or supplemented		
15	to include additional allegations or to attach or reference additional documents		
16	authorized by Subparagraph (A)(4) of this Article or referenced as authorized by		
17	Subparagraph (D)(2) of this Article, provided that all new allegations and attached		
18	documents are filed and served on all parties in accordance with Article 1313 not less		
19	than thirty days prior to the hearing on the motion and not less than sixty-five days		
20	prior to trial. (b)(c) Notice of the hearing date shall be served on all parties in		
21	accordance with Article 1313(C) or 1314 not less than thirty days prior to the		
22	hearing.		
23	* * *		
24	D.		
25	* * *		
26	(2) The court may consider only those documents filed in support of or in		
27	opposition to the motion for summary judgment and any documents or pleadings		
28	previously filed in the record of the case which authorized by Subparagraph (A)(4)		
29	of this Article and which are specifically referenced and separately listed in the		

1 motion or the memorandum in support of or opposition to the motion, and the court
2 shall consider any documents to which no objection is made. Any objection to a
3 document shall be raised in a timely filed opposition or reply memorandum. The
4 court shall consider all objections prior to rendering judgment. The court shall
5 specifically state on the record or in writing which documents, if any, it held to be
6 inadmissible or declined to consider.
7 * * *

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)]

HB 1098 Original	2016 Regular Session	Jay Morris
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Abstract: Provides for the filing and hearing of amended motions for summary judgment and for the filing and reference of certain documents.

Present law provides the procedures for filing and hearing a motion for summary judgment.

<u>Present law</u> provides that the only documents that may be filed in support of or in opposition to the motion are pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records, written stipulations, and admissions. The court may permit documents to be filed in any electronically stored format authorized by court rules or approved by the clerk of the court.

<u>Proposed law</u> retains <u>present law</u> and authorizes exhibits attached to the pleadings, documents attached to the motion, and properly authenticated documents attached to or referenced in an affidavit or a deposition.

<u>Present law</u> provides that a motion for summary judgment and all documents in support of the motion shall be filed and served on all parties in accordance with Article 1313 not less than 65 days prior to the trial and set for hearing not less than 30 days after filing and not less than 30 days prior to trial.

<u>Proposed law</u> provides that an amended motion for summary judgment shall also be filed and served and set according to the same time limitations provided by <u>present law</u>.

<u>Proposed law</u> provides that if a contradictory hearing on a motion for summary judgment is set more than 30 days after filing the motion, the motion may be amended to include additional allegations or to attach or reference additional documents, provided that all new allegations and attached documents are filed and served on all parties in accordance with Article 1313 not less than 30 days prior to the hearing on the motion and not less than 65 days prior to trial.

<u>Present law</u> provides that the court may consider only those documents filed in support of or in opposition to the motion for summary judgment and shall consider any documents to which no objection is made.

<u>Proposed law</u> retains <u>present law</u> and provides that the court may also consider any documents or pleadings previously filed in the record of the case and which are specifically referenced and separately listed in the motion or the memorandum in support of or opposition to the motion.

(Amends C.C.P. Art. 966 (A)(4), (B)(1), (C)(1), and (D)(2))

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