
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. 589

Abstract: Provides for a comprehensive revision of the Code of Civil Procedure relative to venue in general, venue and forum non conveniens procedures for actions involving certain latent diseases, the peremptory exception of immunity, submission of evidence for the purposes of a motion for summary judgment, procedures governing objections to submitted evidence, the effect of a partial summary judgment, proof supporting confirmation of a default judgment, defendant's right to demand a jury trial when a plaintiff has stipulated to a cause of action less than \$50,000, expedited jury trials and the procedures by which they are conducted, amendments to a final judgment, and reasons for granting a motion for new trial.

Present law (C.C.P. Art. 45) provides for application of rules to determine proper venue when two or more C.C.P. articles conflict.

Proposed law retains present law and adds articles addressing proper venue in actions involving latent diseases, actions involving certain retirement systems and employee benefit programs, actions involving voting trusts, and actions involving application for compensation for wrongful conviction and imprisonment to the list of articles providing exclusive venue and the rules for application when two or more articles conflict.

Proposed law (C.C.P. Art. 78.1) provides that actions involving latent diseases, including asbestos and silica, shall be brought in the parish in which the plaintiff alleges substantial exposure, except direct actions against a foreign or alien insurer may also be brought in East Baton Rouge Parish.

Proposed law provides that if exposure is alleged in more than one parish, the court shall determine which parish has the most significant contacts based on the amount and length of exposure and may transfer the action to that parish.

Proposed law provides that when two or more venue articles conflict, proposed law governs the venue exclusively.

Proposed law prohibits the transfer of a suit brought in the domicile of the plaintiff and in a court which is otherwise a court of competent jurisdiction and proper venue.

Proposed law provides that allegations, evidence, and findings in accordance with proposed law shall not result in any presumptions at trial, be conclusive as to liability, be admissible at trial

unless admissible under Code of Evidence, or result in any special instructions to the jury.

Present law (C.C.P. Art. 927) provides for objections to be raised by a peremptory exception including: (1) prescription, (2) peremption, (3) res judicata, (4) nonjoinder of a party, (5) no cause of action, (6) no right of action, and (7) discharge in bankruptcy.

Proposed law retains present law and adds immunity to the list.

Present law (C.C.P. Art. 966) provides the procedure by which a party may move for a summary judgment. Requires the court to render a decision only as to those issues raised in the motion under consideration.

Proposed law changes present law by giving the court discretion in rendering a decision only as to those issues raised in the motion under consideration.

Present law requires the court to consider only evidence admitted for the purposes of the motion for summary judgment in its ruling.

Proposed law changes present law to allow the court to consider evidence submitted for the purposes of summary judgment and provides that a party can object to evidence submitted for the purposes of the motion for summary judgment through a motion to strike or a memorandum that provides the specific grounds for the objection.

Present law (C.C.P. Art. 1702) provides for confirmation of default judgments.

Proposed law retains present law and requires the proof supporting confirmation of a default judgment to be placed into the court record prior to judgment. Provides that the court may require the proof to be in electronic form.

Present law (C.C.P. Art. 1732) provides that a trial by jury shall not be available in a suit where the amount of no individual petitioner's cause of action exceeds \$50,000 exclusive of interests and costs.

Proposed law provides that a defendant may retain the right to a trial by jury even if the plaintiff has stipulated that the cause of action does not exceed \$50,000 when that defendant is entitled to trial by jury pursuant to present law at the time of filing suit and has complied with the procedural requirements for asserting that right.

Proposed law provides procedures for an expedited jury trial.

Proposed law (C.C.P. Art. 1553) provides that the court shall schedule a pre-trial conference with the parties, that the parties shall have a pre-trial order at the pre-trial conference, and that the parties shall certify that they agree to an expedited jury trial.

Proposed law (C.C.P. Art. 1816) provides that upon a joint motion of all parties, the court shall

set the matter for a pre-trial conference in accordance with proposed law to be held within 45 days of the signing of the order.

Proposed law (C.C.P. Art. 1817) provides that parties shall not agree to an expedited jury trial in advance of the institution of the action.

Proposed law (C.C.P. Art. 1818) provides the amount that the court shall fix for the cash deposit for an expedited jury trial and the time period during which the deposit must be made.

Proposed law (C.C.P. Art. 1819) provides that parties to an expedited jury trial shall file all motions for summary judgment 60 days prior to the trial date.

Proposed law (C.C.P. Art. 1820) provides that six jurors shall be chosen by lot to try all issues present in an expedited jury trial.

Proposed law (C.C.P. Art. 1821) provides that all jurors of an expedited jury trial shall be served by regular mail.

Proposed law (C.C.P. Art. 1822) provides that before examination, every prospective juror shall be sworn and affirm to answer truthfully questions propounded to him.

Proposed law (C.C.P. Art. 1823) provides that the court shall examine prospective jurors, and the parties may conduct an examination of all such jurors but no more than twenty minutes in total.

Proposed law (C.C.P. Art. 1824) provides that a juror can be challenged for cause in accordance with Code of Civil Procedure Articles 1765-1767.

Proposed law (C.C.P. Art. 1825) provides that each side is allowed two peremptory challenges, but if there is more than one party on either side, the court can allow additional challenges.

Proposed law (C.C.P. Art. 1826) provides that jurors shall be sworn and a foreperson selected in accordance with Code of Civil Procedure Article 1768.

Proposed law (C.C.P. Art. 1827) provides that no alternate jurors shall be called or selected in an expedited jury trial.

Proposed law (C.C.P. Art. 1828) provides that the entire expedited jury trial shall not exceed six hours, the opening statements shall not exceed 10 minutes per side, closing arguments shall not exceed 15 minutes per side, and that time spent on objections and bench conference does not count against the six-hour time limit.

Proposed law (C.C.P. Art. 1829) provides that no later than 30 days prior to trial, the parties shall exchange all exhibits they plan to offer at trial, the time limits during which a party can object to exhibits, when the court must rule on the admissibility of the exhibits, and when exhibits shall be marked and admitted into evidence.

Proposed law (C.C.P. Art. 1830) provides for expert witnesses to testify in person, by reports, depositions, or video depositions and that each side shall pay for his expert fees, that all motions challenging an expert shall be filed and heard in accordance with Code of Civil Procedure Article 1425(F), and that all expert reports to be used at trial shall be exchanged prior to the pre-trial conference.

Proposed law (C.C.P. Art. 1831) provides that the court may instruct the jury as to any applicable law, the court shall provide the parties a written copy of the charge prior to the trial, and the jury can take with it or have sent to it a written copy of all instructions and charges.

Proposed law (C.C.P. Art. 1832) provides that, in accordance with Code of Civil Procedure Article 1794, jurors can take notes.

Proposed law (C.C.P. Art. 1833) provides that jurors can take any object, writing, or exhibit that has been admitted into evidence, with the exception of depositions, into the jury room.

Proposed law (C.C.P. Art. 1834) provides for the number of jurors that must concur for a verdict to be rendered, and that if fewer than five agree, a mistrial must be granted unless the parties agree otherwise on the record.

Proposed law (C.C.P. Art. 1835) provides that the court shall submit the general verdict form and interrogatories agreed upon by the parties; otherwise, the court shall give the parties a reasonable time to object to the court's supplied verdict form and interrogatories.

Proposed law (C.C.P. Art. 1836) provides that unless the parties have waived a motion by stipulation in open court or in the pre-trial order, any party may file a motion in accordance with the Code of Civil Procedure Articles 1811, 1814, and 1971-1979.

Proposed law (C.C.P. Art. 1837) provides that unless the parties have waived the right to appeal by stipulation in open court or in the pre-trial order, a party may appeal in accordance with the procedure for appeals in Book III of the Code of Civil Procedure.

Proposed law (C.C.P. Art. 1838) provides that except as provided for in proposed law, the general rules applicable to jury trials apply.

Present law (C.C.P. Art. 1915) authorizes the court to render a final judgment when it does one of the following:

- (1) Dismisses the suit.
- (2) Grants a motion for judgment on the pleadings.
- (3) Grants a motion for summary judgment except when summary judgment does not dispose of the entire case.

- (4) Signs a judgment on the principal or incidental demand.
- (5) Signs a judgment on the issue of liability when the issues of liability and damages have been tried separately.
- (6) Imposes sanctions pursuant to various provisions of present law.

Present law further provides that a partial judgment or partial summary judgment that does not address all of the claims, demand, issues, or theories is not a final judgment unless the court specifically designates it as such after an express determination that there is no reason for delay. Provides that absent the required designation and determination, an order that does not adjudicate all claims or the rights of all parties does not terminate the action and is not a final judgment for purposes of an immediate appeal.

Proposed law retains present law except that it deletes the prohibition of terminating an action if a partial judgment or partial summary judgment does not adjudicate all claims or the rights of all parties.

Present law (C.C.P. Art. 1951) provides for amendment to judgments to correct phraseology or errors of calculation.

Proposed law retains present law and requires a hearing before amending a final judgment, unless the parties consent or no opposition is filed after notice of the proposed amendment.

Present law (C.C.P. Art. 1979) requires the court to render a decision on a motion for new trial within 10 days of the submission of the motion. Allows the time to be extended if the parties agree.

Proposed law retains present law and requires the court to specify its reasons for granting a motion for a new trial.

Effective on January 1, 2014.

(Amends C.C.P. Arts. 45, 966(E) and (F), 1702(A), 1732(1), 1915(B), 1951, and 1979; Adds C.C.P. Arts. 78.1, 927(A)(8), 966(G), 1553, and 1815-1838)