

Regular Session, 2013
HOUSE BILL NO. 589

ACT No. 391

BY REPRESENTATIVE ABRAMSON AND SENATOR LAFLEUR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact Code of Civil Procedure Articles 966(B)(2), (E) and (F), 1732(1), and 1915(B) and to enact Code of Civil Procedure Article 966(G), relative to civil procedure; to provide for submission of and objections to evidence for motions for summary judgment; to provide for limitations on jury trial threshold amounts; to provide for the effect of a partial summary judgment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 966(B)(2), (E) and (F), 1732(1), and 1915(B) are hereby amended and reenacted and Code of Civil Procedure Articles 966(G) is hereby enacted to read as follows:

Art. 966. Motion for summary judgment; procedure

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B.

* * *

(2) The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions, together with the affidavits, if any, admitted for purposes of the motion for summary judgment, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law. If the motion for summary judgment is denied, the court should provide reasons for the denial on the record, either orally upon rendition or in writing sua sponte or upon request of a party within ten days of rendition.

* * *

1 E.~~(1)~~ A summary judgment may be rendered dispositive of a particular issue,
 2 theory of recovery, cause of action, or defense, in favor of one or more parties, even
 3 though the granting of the summary judgment does not dispose of the entire case as
 4 to that party or parties ;~~however, a~~.

5 F.(1) A summary judgment ~~shall~~ may be rendered or affirmed only as to
 6 those issues set forth in the motion under consideration by the court at that time.

7 (2) ~~Only evidence admitted for purposes of~~ Evidence cited in and attached
 8 to the motion for summary judgment shall or memorandum filed by an adverse party
 9 is deemed admitted for purposes of the motion for summary judgment unless
 10 excluded in response to an objection made in accordance with Subparagraph (3) of
 11 this Paragraph. Only evidence admitted for purposes of the motion for summary
 12 judgment may be considered by the court in its ruling on the motion.

13 (3) Objections to evidence in support of or in opposition to a motion for
 14 summary judgment may be raised in memorandum or written motion to strike stating
 15 the specific grounds therefor.

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

25 (2) If the provisions of this Paragraph are applicable to the summary
 26 judgment, the court shall so specify in the judgment. If the court fails to specify that
 27 the provisions of this Paragraph are applicable, then the provisions of this Paragraph
 28 shall not apply to the judgment.

29 * * *

1 Art. 1732. Limitation upon jury trials

2 A trial by jury shall not be available in:

3 (1) A suit where the amount of no individual petitioner's cause of action
4 exceeds fifty thousand dollars exclusive of interest and costs, except as follows:

5 (a) If an individual petitioner stipulates or otherwise judicially admits sixty
6 days or more prior to trial that the amount of the individual petitioner's cause of
7 action does not exceed fifty thousand dollars exclusive of interest and costs, a
8 defendant shall not be entitled to a trial by jury.

9 (b) If an individual petitioner stipulates or otherwise judicially admits for the
10 first time less than sixty days prior to trial that the amount of the individual
11 petitioner's cause of action does not exceed fifty thousand dollars exclusive of
12 interest and costs, any other party may retain the right to a trial by jury if that party
13 is entitled to a trial by jury pursuant to this Article and has otherwise complied with
14 the procedural requirements for obtaining a trial by jury.

15 (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if,
16 as a result of a compromise or dismissal of one or more claims or parties which
17 occurs less than 60 days prior to trial, an individual petitioner stipulates or otherwise
18 judicially admits that the amount of the individual petitioner's cause of action does
19 not exceed fifty thousand dollars exclusive of interest and costs, a defendant shall not
20 be entitled to a trial by jury.

21 * * *

22 Art. 1915. Partial final judgment; partial judgment; partial exception; partial
23 summary judgment

24 * * *

25 B.(1) When a court renders a partial judgment or partial summary judgment
26 or sustains an exception in part, as to one or more but less than all of the claims,
27 demands, issues, or theories against a party, whether in an original demand,
28 reconventional demand, cross-claim, ~~third party~~ third-party claim, or intervention,
29 the judgment shall not constitute a final judgment unless it is designated as a final

1 judgment by the court after an express determination that there is no just reason for
2 delay.

3 (2) In the absence of such a determination and designation, any such order
4 or decision ~~which adjudicates fewer than all claims or the rights and liabilities of~~
5 ~~fewer than all the parties, shall not terminate the action as to any of the claims or~~
6 ~~parties and shall not constitute a final judgment for the purpose of an immediate~~
7 ~~appeal. Any such order or decision issued~~ and may be revised at any time prior to
8 rendition of the judgment adjudicating all the claims and the rights and liabilities of
9 all the parties.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____