

By: Duncan

S.B. No. 763

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the affidavit required to prove expenses in a civil  
3 action.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 18.001(d), (e), and (f), Civil Practice  
6 and Remedies Code, are amended to read as follows:

7 (d) The party offering the affidavit in evidence or the  
8 party's attorney must [~~file the affidavit with the clerk of the~~  
9 ~~court and~~] serve a copy of the affidavit on each other party to the  
10 case at least 30 days before the day on which evidence is first  
11 presented at the trial of the case.

12 (e) A party intending to controvert a claim reflected by the  
13 affidavit must [~~file a counteraffidavit with the clerk of the court~~  
14 ~~and~~] serve a copy of the counteraffidavit on each other party or the  
15 party's attorney of record:

16 (1) not later than:

17 (A) 30 days after the day the party [~~he~~] receives  
18 a copy of the affidavit; and

19 (B) at least 14 days before the day on which  
20 evidence is first presented at the trial of the case; or

21 (2) with leave of the court, at any time before the  
22 commencement of evidence at trial.

23 (f) The counteraffidavit must give reasonable notice of the  
24 basis on which the party serving [~~filing~~] it intends at trial to

1 controvert the claim reflected by the initial affidavit and must be  
2 taken before a person authorized to administer oaths. The  
3 counteraffidavit must be made by a person who is qualified, by  
4 knowledge, skill, experience, training, education, or other  
5 expertise, to testify in contravention of all or part of any of the  
6 matters contained in the initial affidavit.

7 SECTION 2. The change in law made by this Act applies only  
8 to a cause of action that is commenced on or after the effective  
9 date of this Act. A cause of action commenced before the effective  
10 date of this Act is governed by the law in effect immediately before  
11 the change in law made by this Act, and that law is continued in  
12 effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2007.