

1-1 By: Duncan S.B. No. 763
1-2 (In the Senate - Filed February 20, 2007; March 6, 2007,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 22, 2007, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; March 22, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the affidavit required to prove expenses in a civil
1-9 action.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (d), (e), and (f), Section 18.001,
1-12 Civil Practice and Remedies Code, are amended to read as follows:

1-13 (d) The party offering the affidavit in evidence or the
1-14 party's attorney must ~~[file the affidavit with the clerk of the~~
1-15 ~~court and]~~ serve a copy of the affidavit on each other party to the
1-16 case at least 30 days before the day on which evidence is first
1-17 presented at the trial of the case.

1-18 (e) A party intending to controvert a claim reflected by the
1-19 affidavit must ~~[file a counteraffidavit with the clerk of the court~~
1-20 ~~and]~~ serve a copy of the counteraffidavit on each other party or the
1-21 party's attorney of record:

1-22 (1) not later than:

1-23 (A) 30 days after the day the party ~~[he]~~ receives
1-24 a copy of the affidavit; and

1-25 (B) at least 14 days before the day on which
1-26 evidence is first presented at the trial of the case; or

1-27 (2) with leave of the court, at any time before the
1-28 commencement of evidence at trial.

1-29 (f) The counteraffidavit must give reasonable notice of the
1-30 basis on which the party -serving ~~[filing]~~ it intends at trial to
1-31 controvert the claim reflected by the initial affidavit and must be
1-32 taken before a person authorized to administer oaths. The
1-33 counteraffidavit must be made by a person who is qualified, by
1-34 knowledge, skill, experience, training, education, or other
1-35 expertise, to testify in contravention of all or part of any of the
1-36 matters contained in the initial affidavit.

1-37 SECTION 2. The change in law made by this Act applies only
1-38 to a cause of action that is commenced on or after the effective
1-39 date of this Act. A cause of action commenced before the effective
1-40 date of this Act is governed by the law in effect immediately before
1-41 the change in law made by this Act, and that law is continued in
1-42 effect for that purpose.

1-43 SECTION 3. This Act takes effect September 1, 2007.

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