2021 Updates to the Louisiana Code of Civil Procedure

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Contents

Art. 80. Action involving immovable property

A. The following actions may be brought in the parish where the immovable property is situated or in the parish where the defendant in the action is domiciled:

(1) An action to assert an interest in immovable property, or a right in, to, or against immovable property.

(2) An action to partition immovable property, except as otherwise provided in Articles 81, 82, and 83.

(3) An action arising from the breach of a lease of immovable property, including the enforcing of a lessor's privilege or seeking the payment of rent. The venue authorized by this Subparagraph shall be in addition to any other venue provided by law for such action.

B. If the immovable property, consisting of one or more tracts, is situated in more than one parish, the action may be brought in any of these parishes.

C. Any action by the sheriff after rendition of judgment shall be by the sheriff of the parish in which the immovable property is situated; however, if the immovable property, consisting of one or more tracts, is situated in more than one parish, the action may be brought by the sheriff of any of the parishes in which a portion of the immovable property is situated.

D. Any action to revoke a donation of immovable property shall be brought in the parish in which the property is located. If the property is located in more than one parish, the action may be brought in any one of them. When such an action is filed a notice of pendency shall be filed in accordance with the provisions of Article 3751.

Amended by Acts 1984, No. 732, §1; Acts 1989, No. 393, §1; Acts 1989, No. 541, §1; Acts 2021, No. 259, §2.

CHAPTER 3. RECUSAL OF JUDGES

Art. 151. Grounds

A. A judge of any trial or appellate court shall be recused upon any of the following grounds:

(1) The judge is a witness in the cause.

(2) The judge has been employed or consulted as an attorney in the cause or has previously been associated with an attorney during the latter's employment in the cause, and the judge participated in representation in the cause.

(3) The judge is the spouse of a party, or of an attorney employed in the cause or the judge's parent, child, or immediate family member is a party or attorney employed in the cause.

(4) The judge is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that the judge would be unable to conduct fair and impartial proceedings.

B. A judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

C. In any cause in which the state or a political subdivision thereof is interested, the fact that the judge is a citizen of the state or a resident of the political subdivision, or pays taxes thereto, is not a ground for recusal. In any cause in which a religious body or religious corporation is

interested, the fact that the judge is a member of the religious body or religious corporation is not alone a ground for recusal.

Acts 1983, No. 106, §1; Acts 1987, No. 579, §1; Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 2008, No. 663, §1; Acts 2021, No. 143, §1.

Art. 152. Disclosures

A. A judge of any trial or appellate court shall disclose, to the best of his information and belief, the existence of any of the following to all attorneys and unrepresented parties in the cause:

(1) The judge has been associated with an attorney during the latter's employment in the cause.

(2) At the time of the hearing of any contested issue in the cause, the judge has continued to employ, to represent him personally, the attorney actually handling the cause or a member of that attorney's firm.

(3) The judge performed a judicial act in the cause in another court.

(4) The judge is related to any of the following:

(a) A party or the spouse of a party, within the fourth degree.

(b) An attorney employed in the cause, the spouse of the attorney, or any member of the attorney's law firm, within the second degree.

(5) The judge's spouse, parent, child, or immediate family member has a substantial economic interest in the subject matter in controversy.

B. Upon disclosure, any party may file a motion that sets forth a ground for recusal under Article 151.

Acts 1985, No. 967, §1; Acts 2001, No. 932, §1; Acts 2021, No. 143, §1.

Art. 153. Recusal on court's own motion

A. A judge may recuse himself in any cause in which a ground for recusal exists, whether or not a motion for his recusal has been filed by a party.

B. A district judge may recuse himself in any cause objecting to the candidacy or contesting the election for any office in which the district or jurisdiction of such office lies wholly within the judicial district of the court on which the district judge serves.

C. Prior to the cause being allotted to another judge, a judge who recuses himself for any reason shall contemporaneously file in the record the order of recusal and written reasons that provide the factual basis for recusal under Article 151. The judge shall also provide a copy of the recusal and the written reasons therefor to the judicial administrator of the supreme court.

Acts 2010, No. 262, §1; Acts 2021, No. 143, §1.

Art. 154. Procedure for recusal of district court judge

A. A party desiring to recuse a judge of a district court shall file a written motion therefor assigning the ground for recusal under Article 151. This motion shall be filed no later than thirty days after discovery of the facts constituting the ground upon which the motion is based, but in all cases prior to the scheduling of the matter for trial. In the event that the facts constituting the ground upon which the motion to recuse is based occur after the matter is scheduled for trial or the

party moving for recusal could not, in the exercise of due diligence, have discovered such facts, the motion to recuse shall be filed immediately after such facts occur or are discovered.

B. If the motion to recuse sets forth a ground for recusal under Article 151, the judge shall either recuse himself or make a written request to the supreme court for the appointment of an ad hoc judge as provided in Article 155.

C. If the motion to recuse is not timely filed in accordance with Paragraph A of this Article or fails to set forth a ground for recusal under Article 151, the judge may deny the motion without the appointment of an ad hoc judge or a hearing but shall provide written reasons for the denial.

Acts 2021, No. 143, §1.

Art. 155. Selection of judge to try motion to recuse

Once a motion that sets forth a ground for recusal under Article 151 is referred for hearing, the supreme court shall appoint an ad hoc judge to hear the motion to recuse, and only the ad hoc judge to whom the motion is assigned shall have the power and authority to act in the cause pending disposition of the motion.

Acts 2001, No. 417, §1; Acts 2021, No. 143, §1.

Art. 156. Selection of judge after recusal

A. When a district court judge of a court having two or more judges voluntarily recuses himself or is recused after a motion to recuse is heard, the cause shall be randomly assigned to another division or section of that court.

B. When a district court judge in a single-judge district voluntarily recuses himself, the judge shall make a written request to the supreme court for the appointment of an ad hoc judge to hear the cause. When an ad hoc judge appointed by the supreme court to hear a recusal grants the motion to recuse, that judge shall request that an ad hoc judge be appointed to hear the cause.

Amended by Acts 1962, No. 409, §1; Acts 2021, No. 143, §1.

Art. 157. Recusal of supreme court justice

A. A party desiring to recuse a justice of the supreme court shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a justice of the supreme court, the justice may recuse himself or the motion shall be heard by the other justices of the court.

B. When a justice of the supreme court recuses himself or is recused, the court may do one of the following:

(1) Have the cause argued before and disposed of by the other justices.

(2) Appoint a sitting or retired judge of a district court or a court of appeal having the qualifications of a justice of the supreme court to act for the recused justice in the hearing and disposition of the cause.

Acts 1985, No. 967, §1; Acts 2001, No. 417, §1; redesignated from C.C.P. Art. 159 as amended by Acts 2021, No. 143, §1.

Art. 158. Recusal of judge of court of appeal

A. A party desiring to recuse a judge of a court of appeal shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a judge of a court of appeal, the judge may recuse himself or the motion shall be heard by an ad hoc judge appointed by the supreme court.

B. When a judge of a court of appeal recuses himself or is recused, the court shall randomly allot another of its judges to sit on the panel in place of the recused judge.

Redesignated from C.C.P. Art. 160 and amended by Acts 2021, No. 143, §1.

Art. 159. Recusal of ad hoc judge

An ad hoc judge appointed to try a motion to recuse a judge, or appointed to try the cause, may be recused on the grounds and in the manner provided in this Chapter for the recusal of judges.

Redesignated from C.C.P. Art. 161 and amended by Acts 2021, No. 143, §1.

Art. 160. Redesignated as Code of Civil Procedure Article 158 by Acts 2021, No. 143, §1.

Art. 161. Redesignated as Code of Civil Procedure Article 159 by Acts 2021, No. 143, §1.

Art. 192.2. Appointment of interpreter for non-English-speaking persons

A. If a non-English-speaking person who is a principal party in interest or a witness in a proceeding before the court has requested an interpreter, a judge shall appoint, after consultation with the non-English-speaking person or his attorney, a competent interpreter to interpret or to translate the proceedings to him and to interpret or translate his testimony.

B. Notwithstanding any other provision of law to the contrary, the court shall order payment to the interpreter for his services at a fixed reasonable amount, and that amount shall be paid out of the appropriate court fund.

C. In a proceeding alleging abuse under R.S. 46:2134 et seq., an interpreter if necessary shall be appointed prior to a rule to show cause hearing.

Acts 2008, No. 882, §1; Acts 2019, No. 406, §1, eff. June 20, 2019; Acts 2021, No. 207, §1, eff. June 11, 2021.

NOTE: Art. 193 eff. until Jan. 1, 2022. See Acts 2021, No. 68.

Art. 193. Power to adopt local rules; publication

A court may adopt rules for the conduct of judicial business before it, including those governing matters of practice and procedure which are not contrary to the rules provided by law. When a court has more than one judge, its rules shall be adopted or amended by a majority of the judges thereof, sitting en banc.

The rules may provide that the court may call a special session of court during vacation, and that any action, proceeding, or matter otherwise required by law to be tried or heard in open court during the regular session may be tried or heard during the special session.

The rules shall be entered on the minutes of the court. Rules adopted by an appellate court shall be published in the manner which the court considers most effective and practicable. Rules

adopted by a district court shall be printed in pamphlet form, and a copy shall be furnished on request to any attorney licensed to practice law in this state.

NOTE: Art. 193 as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.
Art. 193. Power to adopt local rules; publication

A. A court may adopt rules for the conduct of judicial business before it, including those governing matters of practice and procedure that are not contrary to the rules provided by law. When a court has more than one judge, its rules shall be adopted or amended by a majority of the judges thereof, sitting en banc.

B. The rules shall be entered on the minutes of the court. Rules adopted by an appellate court shall be published in the manner that the court considers most effective and practicable.
Amended by Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

NOTE: Art. 194 eff. until Jan. 1, 2022. See Acts 2021, No. 68.

Art. 194. Power of district court to act in chambers; signing orders and judgments

The following orders and judgments may be signed by the district judge in chambers:

(1) Order directing the taking of an inventory; judgment decreeing or homologating a partition, when unopposed; judgment probating a testament ex parte; order directing the execution of a testament; order confirming or appointing a legal representative, when unopposed; order appointing an undertutor or an undercurator; order appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; order authorizing the sale of property of an estate administered by a legal representative; order directing the publication of the notice of the filing of a tableau of distribution, or of an account, by a legal representative; judgment recognizing heirs or legatees and sending them into possession, when unopposed; all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative;

(2) Order to show cause; order directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; order directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; order for the issuance of a temporary restraining order and providing the security therefor; order for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or quo warranto;

(3) Order for the seizure and sale of property in an executory proceeding;

(4) Order for the taking of testimony by deposition; for the production of documentary evidence; for the production of documents and things for inspection, copying, or photographing; for permission to enter land for the purpose of measuring, surveying, or photographing;

(5) Order or judgment deciding or otherwise disposing of an action, proceeding, or matter which may be tried or heard in chambers;

(6) Order or judgment that may be granted on ex parte motion or application, except an order of appeal on an oral motion; and

(7) Any other order or judgment not specifically required by law to be signed in open court.

NOTE: Art. 194 as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.
Art. 194. Power of district court to act; signing orders and judgments

The following orders and judgments may be signed by the district judge in any place where the judge is physically located:

(1) Order directing the taking of an inventory; judgment decreeing or homologating a partition, when unopposed; judgment probating a testament ex parte; order directing the execution of a testament; order confirming or appointing a legal representative, when unopposed; order appointing an undertutor or an undercurator; order appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; order authorizing the sale of property of an estate administered by a legal representative; order directing the publication of the notice of the filing of a tableau of distribution, or of an account, by a legal representative; judgment recognizing heirs or legatees and sending them into possession, when unopposed; all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative.

(2) Order to show cause; order directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; order directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; order for the issuance of a temporary restraining order and providing the security therefor; order for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or quo warranto.

(3) Order for the seizure and sale of property in an executory proceeding.

(4) Order for the taking of testimony by deposition; for the production of documentary evidence; for the production of documents and things for inspection, copying, or photographing; for permission to enter land for the purpose of measuring, surveying, or photographing.

(5) Order or judgment deciding or otherwise disposing of an action, proceeding, or matter that may be tried or heard in chambers.

(6) Order or judgment that may be granted on ex parte motion or application, except an order of appeal on an oral motion.

(7) Any other order or judgment not specifically required by law to be signed in open court.
Acts 2018, No. 195, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

NOTE: Art. 195 eff. until Jan. 1, 2022. See Acts 2021, No. 68.

Art. 195. Same; judicial proceedings

The following judicial proceedings may be conducted by the district judge in chambers:

(1) Hearing on an application by a legal representative for authority, whether opposed or unopposed, and on a petition for emancipation;

(2) Homologation of a tableau of distribution, or of an account, filed by a legal representative, so far as unopposed;

(3) Trial of a rule to determine the nonexempt portion of wages, salaries, or commissions seized under garnishment and to direct the payment thereof periodically by the garnishee to the sheriff;

(4) Examination of a judgment debtor; and

(5) Trial of or hearing on any other action, proceeding, or matter which the law expressly provides may be tried or heard in chambers.

NOTE: Art. 195 as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

Art. 195. Judicial proceedings in chambers

The following judicial proceedings may be conducted by the district judge in chambers or by any audio-visual means:

(1) Hearing on an application by a legal representative for authority, whether opposed or unopposed, and on a petition for emancipation.

(2) Homologation of a tableau of distribution, or of an account, filed by a legal representative, so far as unopposed.

(3) Trial of a rule to determine the nonexempt portion of wages, salaries, or commissions seized under garnishment and to direct the payment thereof periodically by the garnishee to the sheriff.

(4) Examination of a judgment debtor.

(5) Trial of or hearing on any other action, proceeding, or matter that the law expressly provides may be tried or heard in chambers.

Amended by Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

NOTE: Art. 196 eff. until Jan. 1, 2022. See Acts 2021, No. 68.

Art. 196. Power of district court to act in vacation

The following judicial acts or proceedings may be performed or conducted by the district court during vacation:

(1) Signing of an order or judgment which, under Article 194, may be signed in chambers; and signing of any order or judgment in an action or proceeding which is tried in vacation;

(2) Trial of or hearing on an action, proceeding, or matter which, under Article 195, may be tried or heard in chambers;

(3) Trial of a rule for a preliminary injunction, or for the dissolution or modification of any injunctive order;

(4) Trial of a habeas corpus, mandamus, quo warranto, or partition proceeding;

(5) Trial of a motion for a change of venue;

(6) Trial of or hearing on any other action, proceeding, or matter which the law expressly provides may be tried or heard during vacation, or in which the parties thereto have consented to the trial or hearing thereof during vacation;

(7) Signing of an order of appeal requested by petition, providing the security therefor, and trying a rule to test the surety on an appeal bond; and

(8) Trial of or hearing on an action, proceeding, or matter in a special session which, under the rules of the court, may be tried or heard therein.

NOTE: Art. 196 as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

Art. 196. Repealed by Acts 2021, No. 68, §3, eff. Jan. 1, 2022.

Amended by Acts 2021, No. 68, §3, eff. Jan. 1, 2022.

NOTE: Art. 196.1 eff. until Jan. 1, 2022. See Acts 2021, No. 68.

Art. 196.1. Power of courts to act during emergencies

A. A district court or a court of limited jurisdiction may sign orders and judgments while outside of its territorial jurisdiction during an emergency or disaster declared as such pursuant to R.S. 29:724(B) if the emergency or disaster prevents the court from operating in its own jurisdiction.

B. The court shall indicate the location where the order or judgment was signed on any order or judgment signed outside of the court's territorial jurisdiction pursuant to this Article.

NOTE: Art. 196.1 as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

Art. 196.1. Power of judges to sign orders and judgments while outside of the court's territorial jurisdiction

The judge of a district court or a court of limited jurisdiction may sign orders and judgments while outside of the court's territorial jurisdiction.

Acts 2018, No. 275, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

Art. 253.2. Transfer and reassignment of pending cases

After a case has been assigned to a particular section or division of the court, it may not be transferred from one section or division to another section or division within the same court, unless agreed to by all parties, or unless it is being transferred to effect a consolidation pursuant to Article 1561. However, the supreme court, by rule, may establish uniform procedures for reassigning cases under circumstances where an expeditious disposition of cases may be effectuated.

Acts 1997, No. 968, §1; Acts 2021, No. 259, §2.

Art. 253.3. Duty judge exceptions; authority to hear certain matters

A. In any case assigned pursuant to Article 253.1, a duty judge shall only hear and sign orders or judgments for the following:

(1) Domestic relations emergency matters and protective orders concerning physical safety.

(2) Temporary restraining orders.

NOTE: Subparagraph (3) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

(3) Entry of preliminary defaults, confirmation of defaults, stipulated matters, examination of judgment debtors, orders to proceed in forma pauperis, orders allowing the filing of supplemental and amending petitions when no trial date has been assigned, orders allowing incidental demands when no trial date has been assigned, orders allowing additional time to answer, and judicial commitments.

NOTE: Subparagraph (3) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

(3) Default judgments, stipulated matters, examination of judgment debtors, orders to proceed in forma pauperis, orders allowing the filing of supplemental and amending petitions when no trial date has been assigned, orders allowing incidental demands when no trial date has been assigned, orders allowing additional time to answer, and judicial commitments.

(4) Uncontested cases in which all parties other than the plaintiff are represented by an attorney appointed by the court.

(5) Uncontested judgments of divorce pursuant to Civil Code Article 102.

(6) Orders directing the taking of an inventory; judgments decreeing or homologating a partition, when unopposed; judgments probating a testament ex parte; orders directing the execution of a testament; orders confirming or appointing a legal representative, when unopposed; orders appointing an undertutor or an undercurator; orders appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; orders authorizing the sale of property of an estate administered by a legal representative; orders directing the publication of the notice of the filing of a tableau of distribution, or of an account, by a legal representative; judgments recognizing heirs or legatees and sending them into possession, when unopposed; and all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative.

(7) Orders for the seizure and sale of property in an executory proceeding.

B. In any case assigned pursuant to Article 253.1, a duty judge shall only sign orders for issuing the following: orders to show cause; orders directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; orders directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; orders for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or quo warranto; and orders for appeal.

C. In any case assigned pursuant to Article 253.1, a duty judge may sign any order specifically and expressly authorized by the judge to whom the case is assigned.

D. When a duty judge hears any matter or signs any order or judgment pursuant to this Article, he shall not acquire jurisdiction over additional matters in the case. Following the ruling of the duty judge, the judge assigned pursuant to Article 253.1 shall hear the other matters in the case, including but not limited to discovery matters, preliminary injunctions, and injunctions.

Acts 2000, 1st Ex. Sess., No. 24, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

NOTE: Art. 284 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 284. Judicial powers of district court clerk

The clerk of a district court may render, confirm, and sign final default judgments or judgments by confession in cases where the jurisdiction of the court is concurrent with that of justices of the peace, as provided in Article 5011.

NOTE: Art. 284 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 284. Judicial powers of district court clerk

The clerk of a district court may render and sign default judgments or judgments by confession in cases where the jurisdiction of the court is concurrent with that of justices of the peace, as provided in Article 5011.

Amended by Acts 1979, No. 46, §2, eff. Jan. 1, 1980; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 592. Certification procedure; notice; judgment; orders

A.(1) Within ninety days after service on all adverse parties of the initial pleading demanding relief on behalf of or against a class, the proponent of the class shall file a motion to

certify the action as a class action. The delay for filing the motion may be extended by stipulation of the parties or on motion for good cause shown.

(2) If the proponent fails to file a motion for certification within the delay allowed by Subparagraph (1) of this Paragraph, any adverse party may file a notice of the failure to move for certification. On the filing of such a notice and after hearing thereon, the demand for class relief may be stricken. If the demand for class relief is stricken, the action may continue between the named parties alone. A demand for class relief stricken under this Subparagraph may be reinstated upon a showing of good cause by the proponent.

(3)(a) No motion to certify an action as a class action shall be granted prior to a hearing on the motion. Such hearing shall be held as soon as practicable, but in no event until after both of the following have occurred:

(i) All named adverse parties have been served with the pleading containing the demand for class relief or have made an appearance or, with respect to unserved defendants who have not appeared, the proponent of the class has made due and diligent effort to perfect service of such pleading.

(ii) The parties have had a reasonable opportunity to obtain discovery on class certification issues, on such terms and conditions as the court deems necessary, which may include expert witness testimony or evidence. The admissibility of expert witness testimony or evidence for class certification purposes shall also be governed by Article 1425(F), although the court in its discretion may change the deadlines for filing or hearing a motion as set forth in Article 1425(F) provided such deadlines are prior to or contemporaneous with the class certification hearing.

(b) At the hearing on the motion to certify an action as a class action, the proponent of the class shall have the burden of proof to establish that all requirements of Article 591 have been satisfied.

(c) If the court finds that the action should be maintained as a class action, it shall certify the action accordingly. If the court finds that the action should not be maintained as a class action, the action may continue between the named parties. In either event, the court shall give in writing its findings of fact and reasons for judgment provided a request is made not later than ten days after notice of the order or judgment. A suspensive or devolutive appeal, as provided in Article 2081 et seq., may be taken as a matter of right from an order or judgment provided for herein.

(d) In the process of class certification, or at any time thereafter before a decision on the merits of the common issues, the court may alter, amend, or recall its initial ruling on certification and may enlarge, restrict, or otherwise redefine the constituency of the class or the issues to be maintained in the class action.

B.(1) In any class action maintained under Article 591(B)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. This notice, however given, shall be given as soon as practicable after certification, but in any event early enough that a delay provided for the class members to exercise an option to be excluded from the class will have expired before commencement of the trial on the merits of the common issues.

(2) The notice required by Subparagraph (1) of this Paragraph shall include:

(a) A general description of the action, including the relief sought, and the names and addresses of the representative parties or, where appropriate, the identity and location of the source from which the names and addresses of the representative parties can be obtained.

(b) A statement of the right of the person to be excluded from the action by submitting an election form, including the manner and time for exercising the election.

(c) A statement that the judgment, whether favorable or not, will include all members who do not request exclusion.

(d) A statement that any member who does not request exclusion may, if the member desires, enter an appearance through counsel at that member's expense.

(e) A statement advising the class member that the member may be required to take further action as the court deems necessary, such as submitting a proof of claim in order to participate in any recovery had by the class.

(f) A general description of any counterclaim brought against the class.

(g) The address of counsel to whom inquiries may be directed.

(h) Any other information that the court deems appropriate.

(3) Unless the parties agree otherwise, the proponents of the class shall bear the expense of the notification required by this Paragraph. The court may require the party opposing the class to cooperate in securing the names and addresses of the persons within the class defined by the court for the purpose of providing individual notice, but any additional costs reasonably incurred by the party opposing the class in complying with this order shall be paid by the proponent of the class. The court may tax all or part of the expenses incurred for notification as costs.

C. The judgment in an action maintained as a class action under Article 591(B)(1) or (2), whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Article 591(B)(3), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in Paragraph B of this Article was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

D. When appropriate an action may be brought or maintained as a class action with respect to particular issues, or a class may be divided into subclasses and each subclass treated as a class, and the provisions of Article 591 and this Article shall then be construed and applied accordingly.

E. In the conduct of actions to which Article 591 and this Article apply, the court may make any of the following appropriate orders:

(1) Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument.

(2) Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to members of the class of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action.

(3) Imposing conditions on the representative parties or on intervenors.

(4) Requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly.

(5) Dealing with similar procedural matters, including but not limited to case management orders providing for consolidation, duties of counsel, the extent and the scheduling of and the delays for pre-certification and post-certification discovery, and other matters which affect the general order of proceedings; however, the court shall not order the class-wide trial of issues dependent for their resolution on proof individual to a member of the class, including but not limited to the causation of the member's injuries, the amount of the member's special or general damages, the individual knowledge or reliance of the member, or the applicability to the member of individual claims or defenses.

(6) Any of the orders provided in this Paragraph may be combined with an order pursuant to Article 1551, and may be altered or amended as may be desirable from time to time.

Acts 1997, No. 839, §1, eff. July 1, 1997; Acts 2005, No. 205, §1, eff. Jan. 1, 2006; Acts 2012, No. 115, §1; Acts 2013, No. 254, §1; Acts 2021, No. 259, §2.

Art. 863. Signing of pleadings; effect

NOTE: Paragraph (A) eff. until Jan. 1, 2022. See Acts 2021, No. 68.

A. Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose physical address for service of process shall be stated. A party who is not represented by an attorney shall sign his pleading and state his physical address for service of process. If mail is not received at the physical address for service of process, a designated mailing address shall also be provided.

NOTE: Paragraph (A) as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

A. Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose physical address and email address for service of process shall be stated. A party who is not represented by an attorney shall sign his pleading and state his physical address and email address, if he has an email address, for service of process. If mail is not received at the physical address for service of process, a designated mailing address shall also be provided.

B. Pleadings need not be verified or accompanied by affidavit or certificate, except as otherwise provided by law, but the signature of an attorney or party shall constitute a certification by him that he has read the pleading, and that to the best of his knowledge, information, and belief formed after reasonable inquiry, he certifies all of the following:

(1) The pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

(2) Each claim, defense, or other legal assertion in the pleading is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law.

(3) Each allegation or other factual assertion in the pleading has evidentiary support or, for a specifically identified allegation or factual assertion, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

(4) Each denial in the pleading of a factual assertion is warranted by the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief.

C. If a pleading is not signed, it shall be stricken unless promptly signed after the omission is called to the attention of the pleader.

D. If, upon motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court shall impose upon the person who made the certification or the represented party, or both, an appropriate sanction which may include an order to pay to the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees.

E. A sanction authorized in Paragraph D shall be imposed only after a hearing at which any party or his counsel may present any evidence or argument relevant to the issue of imposition of the sanction.

F. A sanction authorized in Paragraph D shall not be imposed with respect to an original petition which is filed within sixty days of an applicable prescriptive date and then voluntarily

dismissed within ninety days after its filing or on the date of a hearing on the pleading, whichever is earlier.

G. If the court imposes a sanction, it shall describe the conduct determined to constitute a violation of the provisions of this Article and explain the basis for the sanction imposed.

Acts 1988, No. 442, §1, eff. Jan. 1, 1989; Acts 2010, No. 540, §1; Acts 2020, No. 13, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

Art. 891. Form of petition

NOTE: Paragraph (A) eff. until Jan. 1, 2022. See Acts 2021, No. 68.

A. The petition shall comply with Articles 853, 854, and 863, and, whenever applicable, with Articles 855 through 861. It shall set forth the name, surname, and domicile of the parties; shall contain a short, clear, and concise statement of all causes of action arising out of, and of the material facts of, the transaction or occurrence that is the subject matter of the litigation; shall designate an address, not a post office box, for receipt of service of all items involving the litigation; and shall conclude with a prayer for judgment for the relief sought. Relief may be prayed for in the alternative.

NOTE: Paragraph (A) as amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

A. The petition shall comply with Articles 853, 854, and 863, and, whenever applicable, with Articles 855 through 861. It shall set forth the name, surname, and domicile of the parties; shall contain a short, clear, and concise statement of all causes of action arising out of, and of the material facts of, the transaction or occurrence that is the subject matter of the litigation; shall designate a physical address, not a post office box, and an email address for receipt of service of all items involving the litigation; and shall conclude with a prayer for judgment for the relief sought. Relief may be prayed for in the alternative.

B. For petitions involving domestic violence brought pursuant to R.S. 46:2131 et seq., R.S. 9:361 et seq., Children's Code Article 1564 et seq., or Code of Civil Procedure Article 3601 et seq., the address and parish of the residence of each petitioner and each person on whose behalf the petition is filed may remain confidential with the court.

Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1991, No. 48, §1; Acts 1997, No. 1156, §2; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

Art. 893. Pleading of damages

A.(1) No specific monetary amount of damages shall be included in the allegations or prayer for relief of any original, amended, or incidental demand. The prayer for relief shall be for such damages as are reasonable in the premises except that if a specific amount of damages is necessary to establish the jurisdiction of the court, the right to a jury trial, the lack of jurisdiction of federal courts due to insufficiency of damages, or for other purposes, a general allegation that the claim exceeds or is less than the requisite amount is required. By interrogatory, an opposing party may seek specification of the amount sought as damages, and the response may thereafter be supplemented as appropriate.

(2) If a petition is filed in violation of this Article, the claim for a specific monetary amount of damages shall be stricken upon the motion of an opposing party, and the court may award attorney fees and costs against the person who signed the petition, the party on whose behalf the petition was filed, or both.

B. The provisions of Paragraph A of this Article shall not be applicable to a suit on a conventional obligation, promissory note, open account, or other negotiable instrument, for alimony or child support, on a tax claim, or in a garnishment proceeding.

C. The prohibitions in Paragraph A of this Article apply only to an original, amended, or incidental demand. Evidence at trial or hearing of a specific monetary amount of damages shall be adduced in accordance with the Louisiana Code of Evidence or other applicable law.

Added by Acts 1988, No. 443, §1, eff. Jan. 1, 1989. Amended by Acts 1989, No. 724, §1, eff. July 8, 1989; Acts 1992, No. 332, §1; Acts 2004, No. 334, §1; Acts 2021, No. 259, §2.

Art. 927. Objections raised by peremptory exception

A. The objections which may be raised through the peremptory exception include but are not limited to the following:

(1) Prescription.

(2) Peremption.

(3) Res judicata.

(4) Nonjoinder of a party under Articles 641 and 642.

(5) No cause of action.

(6) No right of action, or no interest in the plaintiff to institute the suit.

(7) Discharge in bankruptcy.

B. Except as otherwise provided by Articles 1702(D), 4904(D), and 4921(C), the court may not supply the objection of prescription, which shall be specially pleaded. The nonjoinder of a party, peremption, res judicata, the failure to disclose a cause of action or a right or interest in the plaintiff to institute the suit, or discharge in bankruptcy, may be noticed by either the trial or appellate court on its own motion.

Acts 1995, No. 662, §1; Acts 2008, No. 824, §1, eff. Jan. 1, 2009; Acts 2021, No. 259, §2.

Art. 928. Time of pleading exceptions

NOTE: Paragraph (A) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

A. The declinatory exception and the dilatory exception shall be pleaded prior to or in the answer and, prior to or along with the filing of any pleading seeking relief other than entry or removal of the name of an attorney as counsel of record, extension of time within which to plead, security for costs, or dissolution of an attachment issued on the ground of the nonresidence of the defendant, and in any event, prior to the signing of a final default judgment. When both exceptions are pleaded, they shall be filed at the same time, and may be incorporated in the same pleading. When filed at the same time or in the same pleading, these exceptions need not be pleaded in the alternative or in a particular order.

NOTE: Paragraph (A) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

A. The declinatory exception and the dilatory exception shall be pleaded prior to or in the answer and, prior to or along with the filing of any pleading seeking relief other than entry or removal of the name of an attorney as counsel of record, extension of time within which to plead, security for costs, or dissolution of an attachment issued on the ground of the nonresidence of the defendant, and in any event, prior to the signing of a default judgment. When both exceptions are

pleaded, they shall be filed at the same time, and may be incorporated in the same pleading. When filed at the same time or in the same pleading, these exceptions need not be pleaded in the alternative or in a particular order.

B. The peremptory exception may be pleaded at any stage of the proceeding in the trial court prior to a submission of the case for a decision and may be filed with the declinatory exception or with the dilatory exception, or both.

Acts 1983, No. 60, §1; Acts 1997, No. 1055, §1; Acts 1999, No. 983, §1, eff. July 1, 2000; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

NOTE: Art. 1001 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1001. Delay for answering

A defendant shall file his answer within fifteen days after service of citation upon him, except as otherwise provided by law.

When an exception is filed prior to answer and is overruled or referred to the merits, or is sustained and an amendment of the petition ordered, the answer shall be filed within ten days after the exception is overruled or referred to the merits, or ten days after service of the amended petition.

The court may grant additional time for answering.

NOTE: Art. 1001 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1001. Delay for answering

A. A defendant shall file his answer within twenty-one days after service of citation upon him, except as otherwise provided by law. If the plaintiff files and serves a discovery request with his petition, the defendant shall file his answer to the petition within thirty days after service of citation and service of discovery request.

B. When an exception is filed prior to answer and is overruled or referred to the merits, or is sustained and an amendment of the petition ordered, the answer shall be filed within fifteen days after the exception is overruled or referred to the merits, or fifteen days after service of the amended petition.

C. The court may grant additional time for answering.

Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

NOTE: Art. 1002 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1002. Answer or other pleading filed prior to signing of final default judgment

Notwithstanding the provisions of Article 1001, the defendant may file his answer or other pleading at any time prior to the signing of a final default judgment against him.

NOTE: Art. 1002 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1002. Answer or other pleading filed prior to signing of default judgment

Notwithstanding the provisions of Article 1001, the defendant may file his answer or other pleading at any time prior to the signing of a default judgment against him.

Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 1313. Service by mail, delivery, or electronic means

A. Except as otherwise provided by law, every pleading subsequent to the original petition, and every pleading which under an express provision of law may be served as provided in this Article, may be served either by the sheriff or by:

(1) Mailing a copy thereof to the counsel of record, or if there is no counsel of record, to the adverse party at his last known address, this service being complete upon mailing.

(2) Delivering a copy thereof to the counsel of record, or if there is no counsel of record, to the adverse party.

(3) Delivering a copy thereof to the clerk of court, if there is no counsel of record and the address of the adverse party is not known.

(4) Transmitting a copy by electronic means to counsel of record, or if there is no counsel of record, to the adverse party, at the number or addresses expressly designated in a pleading or other writing for receipt of electronic service. Service by electronic means is complete upon transmission but is not effective and shall not be certified if the serving party learns the transmission did not reach the party to be served.

B. When service is made by mail, delivery, or electronic means, the party or counsel making the service shall file in the record a certificate of the manner in which service was made.

NOTE: Paragraph (C) eff. until Jan. 1, 2022. See Acts 2021, No. 68.

C. Notwithstanding Paragraph A of this Article, if a pleading or order sets a court date, then service shall be made either by registered or certified mail or as provided in Article 1314, or by actual delivery by a commercial courier.

NOTE: Paragraph (C) amended by Acts 2021, No. 68, eff. Jan. 1, 2022.

C. Notwithstanding Paragraph A of this Article, if a pleading or order sets a court date, then service shall be made by registered or certified mail or as provided in Article 1314, by actual delivery by a commercial courier, or by emailing the document to the email address designated by counsel or the party. Service by electronic means is complete upon transmission, provided that the sender receives an electronic confirmation of delivery.

D. For purposes of this Article, a "commercial courier" is any foreign or domestic business entity having as its primary purpose the delivery of letters and parcels of any type, and that:

(1) Acquires a signed receipt from the addressee, or the addressee's agent, of the letter or parcel upon completion of delivery.

(2) Has no direct or indirect interest in the outcome of the matter to which the letter or parcel concerns.

Amended by Acts 1997, No. 249, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2010, No. 185, §1; Acts 2012, No. 741, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

Art. 1352. Restrictions on subpoena

A witness, whether a party or not, who resides or is employed in this state may be subpoenaed to attend a trial or hearing wherever held in this state. No subpoena shall issue to compel the attendance of such a witness unless the provisions of R.S. 13:3661 are complied with.

Amended by Acts 1961, No. 23, §1; Acts 2021, No. 259, §2.

Art. 1471. Failure to comply with order compelling discovery; sanctions

A. If a party or an officer, director, or managing agent of a party or a person designated under Article 1442 or 1448 to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under Article 1464 or 1469, the court in which the action is pending may make such orders in regard to the failure as are just, including any of the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

NOTE: Subparagraph (3) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a final default judgment against the disobedient party upon presentation of proof as required by Article 1702.

NOTE: Subparagraph (3) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a default judgment against the disobedient party upon presentation of proof as required by Article 1702.

(4) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

(5) Where a party has failed to comply with an order under Article 1464, requiring him to produce another for examination, such orders as are listed in Subparagraphs (1), (2), and (3) of this Paragraph, unless the party failing to comply shows that he is unable to produce such person for examination.

B. Absent exceptional circumstances, a court may not impose sanctions under this Article on a person or party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

C. In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

Acts 1976, No. 574, §1; Acts 2008, No. 824, §3, eff. Jan. 1, 2009; Acts 2018, No. 195, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

TITLE V
TRIAL
CHAPTER 1. CONSOLIDATION OF CASES AND SEPARATE TRIALS OF ISSUES OF LIABILITY AND DAMAGES

Art. 1561. Consolidation for trial or other limited purposes

A. When two or more separate actions are pending in the same court, the section or division of the court in which the first filed action is pending may order consolidation of the actions for

trial or other limited purposes after a contradictory hearing, upon a finding that common issues of fact and law predominate, and, in the event a trial date has been set in a subsequently filed action, upon a finding that consolidation is in the interest of justice. The contradictory hearing may be waived upon the certification by the mover that all parties in all cases to be consolidated consent to the consolidation.

B. Consolidation shall not be ordered if it would do any of the following:

(1) Cause jury confusion.

(2) Prevent a fair and impartial trial.

(3) Give one party an undue advantage.

(4) Prejudice the rights of any party.

Acts 1997, No. 968, §1; Acts 2008, No. 824, §4, eff. Jan. 1, 2009; Acts 2012, No. 194, §1; Acts 2021, No. 259, §2.

NOTE: Art. 1701 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1701. Preliminary default

A. If a defendant in the principal or incidental demand fails to answer or file other pleadings within the time prescribed by law or by the court, a preliminary default may be entered against him. The preliminary default may be obtained by oral motion in open court or by written motion mailed to the court, either of which shall be entered in the minutes of the court, but the preliminary default shall consist merely of an entry in the minutes.

B. When a defendant in an action for divorce under Civil Code Article 103(1), by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a preliminary default may be entered against the defendant the day on which the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public. The preliminary default may be obtained by oral motion in open court or by written motion mailed to the court, either of which shall be entered in the minutes of the court, but the preliminary default shall consist merely of an entry in the minutes. Notice of the entry of the preliminary default is not required.

NOTE: Art. 1701 as repealed by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1701. Repealed by Acts 2021, No. 174, eff. Jan. 1, 2022.

Amended by Acts 1968, No. 126, §1; Acts 1982, No. 587, §1; Acts 1985, No. 481, §1, eff. July 12, 1985; Acts 1987, No. 181, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 2001, No. 512, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §6, eff. Jan. 1, 2022.

NOTE: Art. 1702 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1702. Confirmation of preliminary default

A. A preliminary default must be confirmed by proof of the demand that is sufficient to establish a prima facie case and that is admitted on the record prior to the entry of a final default judgment. The court may permit documentary evidence to be filed in the record in any electronically stored format authorized by the local rules of the district court or approved by the

clerk of the district court for receipt of evidence. If no answer or other pleading is filed timely, this confirmation may be made after two days, exclusive of holidays, from the entry of the preliminary default. When a preliminary default has been entered against a party that is in default after having made an appearance of record in the case, notice of the date of the entry of the preliminary default must be sent by certified mail by the party obtaining the preliminary default to counsel of record for the party in default, or if there is no counsel of record, to the party in default, at least seven days, exclusive of holidays, before confirmation of the preliminary default.

B.(1) When a demand is based upon a conventional obligation, affidavits and exhibits annexed thereto which contain facts sufficient to establish a prima facie case shall be admissible, self-authenticating, and sufficient proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a final default judgment.

(2) When a demand is based upon a delictual obligation, the testimony of the plaintiff with corroborating evidence, which may be by affidavits and exhibits annexed thereto which contain facts sufficient to establish a prima facie case, shall be admissible, self-authenticating, and sufficient proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a final default judgment.

(3) When the sum due is on an open account or a promissory note or other negotiable instrument, an affidavit of the correctness thereof shall be prima facie proof. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. In those proceedings in which the sum due is on an open account or a promissory note, other negotiable instrument, or other conventional obligation, or a deficiency judgment derived therefrom, including those proceedings in which one or more mortgages, pledges, or other security for the open account, promissory note, negotiable instrument, conventional obligation, or deficiency judgment derived therefrom is sought to be enforced, maintained, or recognized, or in which the amount sought is that authorized by R.S. 9:2782 for a check dishonored for nonsufficient funds, a hearing in open court shall not be required unless the judge, in his discretion, directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed final default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed final default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the final default judgment. A certified copy of the signed final default judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing of the final default judgment shall be given as provided in Article 1913.

D. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a final default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the final default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

E. When the demand is based upon a claim for a personal injury, a sworn narrative report of the treating physician or dentist may be offered in lieu of his testimony.

F. Notwithstanding any other provisions of law to the contrary, when the demand is for divorce under Civil Code Article 103(1) or (5), whether or not the demand contains a claim for relief incidental or ancillary thereto, a hearing in open court shall not be required unless the judge, in his discretion, directs that a hearing be held. The plaintiff shall submit to the court an affidavit specifically attesting to and testifying as to the truth of all of the factual allegations contained in the petition, the original and not less than one copy of the proposed final judgment, and a certification which shall indicate the type of service made on the defendant, the date of service, the date a preliminary default was entered, and a certification by the clerk that the record was examined by the clerk, including the date of the examination, and a statement that no answer or other pleading has been filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree shall also be submitted to the court. If no answer or other pleading has been filed by the defendant, the judge shall, after two days, exclusive of holidays, of entry of a preliminary default, review the affidavit, proposed final default judgment, and certification, render and sign the proposed final default judgment, or direct that a hearing be held. The minutes shall reflect rendition and signing of the final default judgment.

NOTE: Art.1702 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1702. Default judgment

A.(1) If a defendant in the principal or incidental demand fails to answer or file other pleadings within the time prescribed by law or by the court, and the plaintiff establishes a prima facie case by competent and admissible evidence that is admitted on the record, a default judgment in favor of the plaintiff may be rendered, provided that notice that the plaintiff intends to obtain a default judgment is sent if required by this Paragraph, unless such notice is waived. The court may permit documentary evidence to be filed in the record in any electronically stored format authorized by the local rules of the district court or approved by the clerk of the district court for receipt of evidence.

(2) If a party who fails to answer has made an appearance of record in the case, notice that the plaintiff intends to obtain a default judgment shall be sent by certified mail to counsel of record for the party, or if there is no counsel of record, to the party, at least seven days before a default judgment may be rendered.

(3) If an attorney for a party who fails to answer has contacted the plaintiff or the plaintiff's attorney in writing concerning the action after it has been filed, notice that the plaintiff intends to obtain a default judgment shall be sent by certified mail to the party's attorney at least seven days before a default judgment may be rendered.

(4) In cases involving delictual actions where neither Subparagraph (2) or (3) of this Paragraph applies, notice that the plaintiff intends to obtain a default judgment shall be sent by regular mail to the party who fails to answer at the address where service was obtained at least seven days before a default judgment may be rendered.

B.(1) When a demand is based upon a conventional obligation, affidavits and exhibits annexed thereto that contain facts sufficient to establish a prima facie case shall be admissible, self-authenticating, and sufficient proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a default judgment.

(2) When a demand is based upon a delictual obligation, the testimony of the plaintiff with corroborating evidence, which may be by affidavits and exhibits annexed thereto containing facts sufficient to establish a prima facie case, shall be admissible, self-authenticating, and sufficient

proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a default judgment.

(3) When the sum due is on an open account or a promissory note or other negotiable instrument, an affidavit of the correctness thereof shall be prima facie proof. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. In those proceedings in which the sum due is on an open account or a promissory note, other negotiable instrument, or other conventional obligation, or a deficiency judgment derived therefrom, including those proceedings in which one or more mortgages, pledges, or other security for the open account, promissory note, negotiable instrument, conventional obligation, or deficiency judgment derived therefrom is sought to be enforced, maintained, or recognized, or in which the amount sought is that authorized by R.S. 9:2782 for a check dishonored for nonsufficient funds, a hearing in open court shall not be required unless the judge, in his discretion, directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the default judgment. A certified copy of the signed default judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing of the default judgment shall be given as provided in Article 1913.

D. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

E. When the demand is based upon a claim for a personal injury, a sworn narrative report of the treating physician or dentist may be offered in lieu of his testimony.

F.(1) Notwithstanding any other provisions of law to the contrary, when the demand is for divorce under Civil Code Article 103(1) or (5), whether or not the demand contains a claim for relief incidental or ancillary thereto, a hearing in open court shall not be required unless the judge, in his discretion, directs that a hearing be held. The plaintiff shall submit to the court an affidavit specifically attesting to and testifying as to the truth of all of the factual allegations contained in the petition, the original and not less than one copy of the proposed default judgment, a certification indicating the type of service made on the defendant and the date of service, and a certification by the clerk that the record was examined by the clerk, including the date of the examination, and a statement that no answer or other pleading has been filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree shall also be submitted to the court. If no answer or other pleading has been filed by the defendant, the judge shall review the submitted affidavit, proposed default judgment, and certification and render and sign the proposed default judgment or direct that a hearing be held. The minutes shall reflect rendition and signing of the default judgment.

(2) If the demand is for divorce under Civil Code Article 103(1) and the defendant, by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a default judgment of divorce may be entered against the defendant two days, exclusive of legal holidays, after the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public.

Acts 1983, No. 266, §1, eff. Jan. 1, 1984; Acts 1986, No. 219, §1; Acts 1986, No. 285, §1; Acts 1986, No. 430, §1; Acts 1987, No. 182, §1; Acts 1987, No. 271, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 1992, No. 292, §1 ; Acts 2001, No. 512, §1; Acts 2008, No. 354, §1, eff. June 21, 2008; Acts 2013, No. 78, §1; Acts 2014, No. 791, §20; Acts 2015, No. 221, §2; Acts 2017, No. 419, §1; Acts 2021, No. 174, §5, eff. Jan. 1, 2022; Acts 2021, No. 259, §2.

NOTE: See Acts 2015, No. 221, §4, regarding applicability.

NOTE: Art. 1702.1 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1702.1. Confirmation of preliminary default without hearing in open court; required information; certifications

A. When the plaintiff seeks to confirm a preliminary default without appearing for a hearing in open court as provided in Article 1702(B)(1) and (C), along with any proof required by law, he or his attorney shall include in an itemized form with a written motion for confirmation of preliminary default and proposed final default judgment a certification that the suit is on an open account, promissory note, or other negotiable instrument, on a conventional obligation, or on a check dishonored for nonsufficient funds, and that the necessary invoices and affidavit, note and affidavit, or check or certified reproduction thereof are attached. If attorney fees are sought under R.S. 9:2781 or 2782, the attorney shall certify that fact and the fact that the number of days required by R.S. 9:2781(A) or 2782(A), respectively, have elapsed since demand was made upon the defendant.

B. The certification shall indicate the type of service made on the defendant, the date of service, and the date a preliminary default was entered, and shall also include a certification by the clerk that the record was examined by the clerk, including therein the date of the examination and a statement that no answer or other pleading has been filed within the time prescribed by law or by the court.

NOTE: Art. 1702.1 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1702.1. Default judgment without hearing in open court; required information; certifications

A. When the plaintiff seeks a default judgment without appearing for a hearing in open court as provided in Article 1702(B)(1) and (C), the plaintiff shall file a written request for default judgment containing a certification that the suit is on an open account, promissory note, or other negotiable instrument, on a conventional obligation, or on a check dishonored for nonsufficient funds, and that the necessary invoices and affidavit, note and affidavit, or check or certified reproduction thereof are attached, along with any proof required by law and a proposed default judgment. If attorney fees are sought under R.S. 9:2781 or 2782, the attorney shall certify that fact and the fact that the number of days required by R.S. 9:2781(A) or 2782(A), respectively, have elapsed since demand was made upon the defendant.

B. The certification shall indicate the type of service made on the defendant and the date of service and shall also include a certification by the clerk that the record was examined by the

clerk, including therein the date of the examination and a statement that no answer or other pleading has been filed within the time prescribed by law or by the court.

Added by Acts 1984, No. 507, §1. Acts 1987, No. 182, §1; Acts 1992, No. 292, §1; Acts 2001, No. 1075, §2; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

NOTE: Art. 1703 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1703. Scope of judgment

A final default judgment shall not be different in kind from that demanded in the petition. The amount of damages awarded shall be the amount proven to be properly due as a remedy.

NOTE: Art. 1703 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1703. Scope of judgment

A default judgment shall not be different in kind from that demanded in the petition. The amount of damages awarded shall be the amount proven to be properly due as a remedy.

Amended by Acts 1988, No. 443, §2, eff. Jan. 1, 1989; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

NOTE: See Acts 1988, No. 443, §3.

NOTE: Art. 1704 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1704. Confirmation of preliminary default in suits against the state or a political subdivision

A. Notwithstanding any other provision of law to the contrary, prior to confirmation of a preliminary default against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, a certified copy of the minute entry constituting the preliminary default entered pursuant to Article 1701, together with a certified copy of the petition or other demand, shall be sent by the plaintiff or his counsel to the attorney general by registered or certified mail, or shall be served by the sheriff personally upon the attorney general or the first assistant attorney general at the office of the attorney general. If the minute entry and the petition are served on the attorney general by mail, the person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the attorney general with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. In addition the return receipt shall be attached to the affidavit which was filed in the record.

B. If no answer or other pleading is filed during the fifteen days immediately following the date on which the attorney general or the first assistant attorney general received notice of the preliminary default as provided in Paragraph A of this Article, a preliminary default entered against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be confirmed by proof as required by Article 1702.

C. Notwithstanding any other provision of law to the contrary, prior to confirmation of a preliminary default against a political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, a certified copy of the minute entry constituting the preliminary default entered pursuant to Article 1701, together with a certified copy of the petition or other demand, shall be sent by the plaintiff or his counsel by registered or certified mail to the proper agent or person for service of process at the office of that agent or person. The

person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the proper agent or person for service of process, with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. In addition the return receipt shall be attached to the affidavit which was filed in the record.

D. If no answer or other pleading is filed during the fifteen days immediately following the date on which the agent or person for service of process received notice of the preliminary default as provided in Paragraph C of this Article, a preliminary default entered against the political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be confirmed by proof as required by Article 1702.

NOTE: Art. 1704 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 1704. Default judgment in suits against the state or a political subdivision

A. Notwithstanding any other provision of law to the contrary, prior to the rendition of a default judgment against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, the plaintiff or the plaintiff's attorney shall send notice of the plaintiff's intent to obtain a default judgment, together with a certified copy of the petition or other demand, to the attorney general by registered or certified mail, or shall be served by the sheriff personally upon the attorney general or the first assistant attorney general at the office of the attorney general. If the notice and petition are served on the attorney general by mail, the person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the attorney general with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. The return receipt shall be attached to the affidavit that is filed in the record.

B. If no answer or other pleading is filed during the twenty-one days immediately following the date on which the attorney general or the first assistant attorney general received notice of the intent to obtain a default judgment as provided in Paragraph A of this Article, a default judgment against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be rendered upon proof as required by Article 1702.

C. Notwithstanding any other provision of law to the contrary, prior to the rendition of a default judgment against a political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, the plaintiff or the plaintiff's attorney shall send notice of the plaintiff's intent to obtain a default judgment, together with a certified copy of the petition or other demand, by registered or certified mail to the proper agent or person for service of process at the office of that agent or person. The person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the proper agent or person for service of process, with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. The return receipt shall be attached to the affidavit that is filed in the record.

D. If no answer or other pleading is filed during the twenty-one days immediately following the date on which the agent or person for service of process received notice of the intent to obtain a default judgment as provided in Paragraph C of this Article, a default judgment against the political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be rendered upon proof as required by Article 1702.

Added by Acts 1978, No. 149, §1, eff. June 29, 1978; Acts 1986, No. 155, §1, eff. June 28, 1986; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 1732. Limitation upon jury trials

A trial by jury shall not be available in:

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

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

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

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

(2)(a) A suit commenced in a parish or city court, wherein the individual petitioner stipulates or otherwise judicially admits that the amount of the individual petitioner's cause of action does not exceed the amount in dispute to which the jurisdiction of the court is limited by Articles 4842 and 4843, exclusive of interest, penalties, attorney fees, and costs.

(b) The provisions of this Subparagraph shall not apply to delictual or quasi-delictual actions, which shall be governed by the provisions of Subparagraph (1) of this Article.

(3) A suit on an unconditional obligation to pay a specific sum of money, unless the defense thereto is forgery, fraud, error, want, or failure of consideration.

(4) A summary, executory, probate, partition, mandamus, habeas corpus, quo warranto, injunction, concursus, workers' compensation, emancipation, tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce proceeding.

(5) A proceeding to determine custody, visitation, alimony, or child support.

(6) A proceeding to review an action by an administrative or municipal body.

(7) All cases where a jury trial is specifically denied by law.

Acts 1983, No. 534, §1. Amended by Acts 1984, No. 301, §1; Acts 1987, No. 766, §1; Acts 1988, No. 147, §1; Acts 1989, No. 107, §1; Acts 1990, No. 361, §1, eff. Jan. 1, 1991; Acts 1993, No. 661, §1; Acts 1999, No. 1363, §1; Acts 2004, No. 26, §2; Acts 2013, No. 391, §1; Acts 2020, 1st Ex. Sess., No. 37, §2, eff. Jan. 1, 2021.

Art. 1733. Demand for jury trial; bond for costs

A.(1) Except as provided in Subparagraph (2) of this Paragraph, a party may obtain a trial by jury by filing a pleading demanding a trial by jury and a bond in the amount and within the time set by the court pursuant to Article 1734.

(2)(a) In a suit for damages arising from a delictual or quasi-delictual action where an individual petitioner stipulates or otherwise judicially admits that his cause of action exceeds ten thousand dollars and is less than fifty thousand dollars, a party may obtain a trial by jury by filing a pleading demanding a trial by jury and providing a cash deposit of five thousand dollars no later

than sixty days after filing the request for a trial by jury. Failure to post the cash deposit as required by this Subparagraph shall constitute a waiver of the trial by jury. This cash deposit shall be subject to Article 1734.1(E).

(b) When the case is set for trial, the court may additionally provide for a supplemental bond or cash deposit in accordance with Article 1734 or 1734.1.

B. A motion to withdraw a demand for a trial by jury shall be in writing.

C. The pleading demanding a trial by jury shall be filed not later than ten days after either the service of the last pleading directed to any issue triable by a jury, or the granting of a motion to withdraw a demand for a trial by jury.

Acts 1983, No. 534, §1; Acts 2020, 1st Ex. Sess., No. 37, §2, eff. Jan. 1, 2021.

Art. 1734. Fixing the bond; calling the jury venire

A. Except as otherwise provided by R.S. 13:3105 et seq., when the case has been set for trial, the court shall fix the amount of the bond to cover all costs estimated by the court related to the trial by jury and shall fix the time for filing the bond, which shall be no later than sixty days prior to trial. Notice of the fixing of the bond shall be served on all parties. If the bond is not filed timely, any other party shall have an additional ten days to file the bond.

B. When the bond has been filed, the clerk of court shall order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with R.S. 13:3044.

Acts 1987, No. 148, §1; Acts 1995, No. 148, §1; Acts 2005, No. 28, §1; Acts 2021, No. 382, §1.

Art. 1734.1. Cash deposit; procedure

A. When the case has been set for trial, the court may order, in lieu of the bond required in Article 1734, a deposit for costs, which shall be a specific amount estimated by the court, and the court shall fix the time for making the deposit, which shall be no later than thirty days prior to trial. The deposit shall include sufficient funds for payment of all costs associated with a jury trial, including juror fees and expenses and charges of the jury commission, clerk of court, and sheriff. The required deposit shall not exceed five thousand dollars for the first day, and one thousand dollars per day for each additional day the court estimates the trial will last. Notice of the fixing of the deposit shall be served on all parties. If the deposit is not timely made, any other party shall have an additional ten days to make the required deposit. Failure to post the deposit shall constitute a waiver of a trial by jury. However, no deposit shall be required of an applicant for a jury trial under the provisions of this Article if waived or an order is rendered, pursuant to Chapter 5 of Title I of Book IX of this Code, permitting the applicant to litigate or continue to litigate without payment of costs in advance or furnishing security therefor.

B. When the deposit has been filed, the clerk of court shall order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with R.S. 13:3044.

C. The clerk of court may disburse funds from the cash deposit for payment of all or a part of the jury costs as such costs accrue. The clerk shall keep a record of funds disbursed from the deposit.

D. The court may require an additional deposit to be filed during the trial if the original amount of the deposit is insufficient to pay jury costs.

E. The funds disbursed from the cash deposit for payment of jury costs shall be assessed as costs of court.

F. After payment of all jury costs, any unexpended amounts remaining on deposit shall be refunded by the clerk of court to the party or attorney filing the deposit.

Acts 1987, No. 937, §2; Acts 1989, No. 307, §1; Acts 1995, No. 148, §1; Acts 2004, No. 840, §2; Acts 2021, No. 382, §1.

Art. 1793. Instructions to jury; objections

A. At the close of the evidence, or at such earlier time as the court reasonably directs, a party may file written requests that the court instruct the jury on the law as set forth in the requests.

B. The court shall inform the parties of its proposed action on the written requests and shall also inform the parties of the instructions it intends to give to the jury at the close of the evidence within a reasonable time prior to their arguments to the jury.

C. A party may not assign as error the giving or the failure to give an instruction unless he objects thereto either before the jury retires to consider its verdict or immediately after the jury retires, stating specifically the matter to which he objects and the grounds of his objection. If he objects prior to the time the jury retires, he shall be given an opportunity to make the objection out of the hearing of the jury.

D. The jury may take with it or have sent to it a written copy of all instructions and charges.

Acts 1983, No. 534, §7; Acts 1987, No. 699, §1; Acts 1997, No. 668, §1; Acts 2021, No. 259, §2.

Art. 1795. Jury request to review testimony

If the jury, after retiring for deliberation, requests a review of certain testimony, they shall be conducted to the courtroom. After giving notice to the parties, the court may have the requested testimony read to the jury.

Acts 1983, No. 534, §7; Acts 2021, No. 259, §2.

NOTE: Art. 1843 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 1843. Final default judgment

A final default judgment is that which is rendered against a defendant who fails to plead within the time prescribed by law.

NOTE: Art. 1843 as amended by Acts 2021, No. 174 eff. Jan. 1, 2022.

Art. 1843. Default judgment

A default judgment is that which is rendered against a defendant who fails to plead within the time prescribed by law.

Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 1913. Notice of judgment

A. Except as otherwise provided by law, notice of the signing of a final judgment, including a partial final judgment under Article 1915, is required in all contested cases, and shall be mailed by the clerk of court to the counsel of record for each party, and to each party not represented by counsel.

NOTE: Paragraph (B) and (C) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

B. Notice of the signing of a final default judgment against a defendant on whom citation was not served personally, or on whom citation was served through the secretary of state, and who filed no exception, answer, or other pleading, shall be served on the defendant by the sheriff, by either personal or domiciliary service, or in the case of a defendant originally served through the secretary of state, by service on the secretary of state.

C. Except when service is required under Paragraph B of this Article, notice of the signing of a final default judgment shall be mailed by the clerk of court to the defendant at the address where personal service was obtained or to the last known address of the defendant.

NOTE: Paragraph (B) and (C) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

B. Notice of the signing of a default judgment against a defendant on whom citation was not served personally, or on whom citation was served through the secretary of state, and who filed no exception, answer, or other pleading, shall be served on the defendant by the sheriff, by either personal or domiciliary service, or in the case of a defendant originally served through the secretary of state, by service on the secretary of state.

C. Except when service is required under Paragraph B of this Article, notice of the signing of a default judgment shall be mailed by the clerk of court to the defendant at the address where personal service was obtained or to the last known address of the defendant.

D. The clerk shall file a certificate in the record showing the date on which, and the counsel and parties to whom, notice of the signing of the judgment was mailed.

E. Repealed by Acts 2008, No. 824, §5, eff. Jan. 1, 2009.

Amended by Acts 1961, No. 23, §1; Acts 1968, No. 127, §1; Acts 1990, No. 1000, §1; Acts 1992, No. 700, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2001, No. 512, §1; Acts 2006, No. 337, §1; Acts 2008, No. 824, §5, eff. Jan. 1, 2009; Acts 2017, No. 419, §1; Acts 2018, No. 195, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 1918. Form of final judgment

A. A final judgment in accordance with Article 1841 shall be identified as such by appropriate language; shall be signed and dated; and shall, in its decree, identify the name of the party in whose favor the relief is awarded, the name of the party against whom the relief is awarded, and the relief that is awarded. If appealed, a final judgment that does not contain the appropriate decretal language shall be remanded to the trial court, which shall amend the judgment in accordance with Article 1951 within the time set by the appellate court.

B. When written reasons for the judgment are assigned, they shall be set out in an opinion separate from the judgment.

Acts 2021, No. 259, §2.

CHAPTER 4. MODIFICATION IN TRIAL COURT
SECTION 1. AMENDMENT

Art. 1951. Amendment of judgment

On motion of the court or any party, a final judgment may be amended at any time to alter the phraseology of the judgment or to correct deficiencies in the decretal language or errors of calculation. The judgment may be amended only after a hearing with notice to all parties, except that a hearing is not required if all parties consent or if the court or the party submitting the amended judgment certifies that it was provided to all parties at least five days before the amendment and that no opposition has been received. A final judgment may not be amended under this Article to change its substance.

Acts 2013, No. 78, §1; Acts 2021, No. 259, §2.

Art. 1974. Delay for applying for new trial

A party may file a motion for a new trial not later than seven days, exclusive of legal holidays, after the clerk has mailed or the sheriff has served the notice of judgment as required by Article 1913.

Amended by Acts 1961, No. 23, §1; Acts 1974, No. 520, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2021, No. 259, §2.

Art. 2002. Annulment for vices of form; time for action

A. A final judgment shall be annulled if it is rendered:

(1) Against an incompetent person not represented as required by law.

NOTE: Subparagraph (2) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

(2) Against a defendant who has not been served with process as required by law and who has not waived objection to jurisdiction, or against whom a valid final default judgment has not been taken.

NOTE: Subparagraph (2) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

(2) Against a defendant who has not been served with process as required by law and who has not waived objection to jurisdiction, or against whom a valid default judgment has not been taken.

(3) By a court which does not have jurisdiction over the subject matter of the suit.

B. Except as otherwise provided in Article 2003, an action to annul a judgment on the grounds listed in this Article may be brought at any time.

Acts 1997, No. 578, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 2088. Divesting of jurisdiction of trial court

A. The jurisdiction of the trial court over all matters in the case reviewable under the appeal is divested, and that of the appellate court attaches, on the granting of the order of appeal and the timely filing of the appeal bond, in the case of a suspensive appeal or on the granting of the order of appeal, in the case of a devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over those matters not reviewable under the appeal, including the right to do any of the following:

(1) Allow the taking of a deposition, as provided in Article 1433.

(2) Extend the return day of the appeal, as provided in Article 2125.

(3) Make, or permit the making of, a written narrative of the facts of the case, as provided in Article 2131.

(4) Correct any misstatement, irregularity, informality, or omission of the trial record, as provided in Article 2132.

(5) Test the solvency of the surety on the appeal bond as of the date of its filing or subsequently, consider objections to the form, substance, and sufficiency of the appeal bond, and permit the curing thereof, as provided in Articles 5123, 5124, and 5126.

(6) Grant an appeal to another party.

(7) Execute or give effect to the judgment when its execution or effect is not suspended by the appeal.

(8) Enter orders permitting the deposit of sums of money within the meaning of Article 4658.

(9) Impose the penalties provided by Article 2126, or dismiss the appeal, when the appellant fails to timely pay the estimated costs or the difference between the estimated costs and the actual costs of the appeal.

(10) Set and tax costs, expert witness fees, and attorney fees.

(11) Certify a partial judgment or partial summary judgment in accordance with Article 1915(B).

(12) Amend a judgment to provide proper decretal language under Article 1918 or 1951.

B. In the case of a suspensive appeal, when the appeal bond is not timely filed and the suspensive appeal is thereby not perfected, the trial court maintains jurisdiction to convert the suspensive appeal to a devolutive appeal, except in an eviction case.

Amended by Acts 1964, No. 4, §1. Acts 1968, No. 128, §1. Acts 1977, No. 175, §1, eff. Jan. 1, 1978. Acts 1983, No. 126, §1; Acts 2008, No. 658, §1; Acts 2021, No. 259, §2.

Art. 2254. Execution by sheriff; return; wrongful seizure

A. The sheriff shall proceed promptly to execute the writ and make a return to the clerk who issued it, stating the manner in which it was executed.

B. The sheriff shall have no liability to the debtor or to any third party for wrongful or improper seizure of the debtor's or third party's property of the same general type as described in the debtor's security agreement. If necessary, the sheriff shall request the secured creditor to identify the property subject to the security agreement and shall act pursuant to the secured creditor's instructions. The debtor's and other owner's sole remedy for the wrongful or improper seizure of the property shall be for actual losses sustained under R.S. 10:9-625 against the secured creditor on whose behalf and pursuant to whose instructions the sheriff may act.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989; Acts 2021, No. 259, §2.

CHAPTER 2. JUDICIAL SALE UNDER FIERI FACIAS

Art. 2331. Publication of notice of sale

A. Notice of the sale of property under a writ of fieri facias shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. The court may order additional publications.

B. Notwithstanding the requirements of Paragraph A of this Article, if a judicial sale of immovable property is cancelled or postponed and rescheduled for a later date, notice of sale of property under a writ of fieri facias shall be published once in the manner provided by law.

C. The sheriff shall not order the advertisement of the sale of the property seized until three days, exclusive of holidays, have elapsed after service on the judgment debtor of the notice of seizure, as provided in Article 2293.

Amended by Acts 2021, No. 469, §1.

Art. 2334. Reading of advertisement and certificates

A. At the time and place designated for the sale, the sheriff shall read aloud all or part of the advertisement describing the property in such sufficiency as to reasonably provide notice to the public of the property then being offered for sale, which, at a minimum, shall include the lot and subdivision or municipal number or by section, township, and range, including some identifying mark, if appropriate, and a reference to the conveyance or mortgage recordation. The sheriff shall also read aloud a mortgage certificate and any other certificate required by law or otherwise provide, at least twenty-four hours prior to the sale, a copy of such certificates to the public by means of public posting, written copies, electronic means, or by any other method.

B. The failure of the sheriff to procure, read aloud, or provide a copy of any certificate as required by this Article shall not impact the validity of the sale and shall not give rise to any cause of action against the sheriff, the seizing creditor, or the purchaser arising out of such failure.

Amended by Acts 2019, No. 415, §1; Acts 2021, No. 309, §1.

CHAPTER 4. EXECUTION OF WRIT OF SEIZURE AND SALE

Art. 2721. Seizure of property; notice

A. The sheriff shall seize the property affected by the mortgage, security agreement, or privilege immediately upon receiving the writ of seizure and sale.

B. The sheriff shall serve upon the defendant a written notice of the seizure of the property. Such notice of seizure shall be accomplished by personal service or domiciliary service. The notice of seizure shall reproduce in full the provisions of Article 2642 and include information concerning the availability of housing counseling services, as well as the time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B).

C. The sheriff shall have no liability to the debtor or to any third party for wrongful or improper seizure of the debtor's or third party's property of the same general type as described in the debtor's security agreement. If necessary, the sheriff shall request the secured creditor to identify the property subject to the security agreement and shall act pursuant to the secured creditor's instructions. The debtor's and other owner's sole remedy for the wrongful or improper seizure of the property shall be for actual losses sustained under R.S. 10:9-625 against the secured creditor on whose behalf and pursuant to whose instructions the sheriff may act.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989; Acts 2001, No. 128, §17, eff. July 1, 2001; Acts 2006, No. 498, §1; Acts 2013, No. 339, §2; Acts 2016, No. 132, §1; Acts 2021, No. 259, §2.

Art. 3434. Endorsed copy of affidavit authority for delivery of property

A. A multiple original of the affidavit authorized by Article 3432 or 3432.1, shall be full and sufficient authority for the payment or delivery of any money or property of the deceased described in the affidavit to the heirs or legatees of the deceased and the surviving spouse in community, if any, in the percentages listed therein, by any federally insured depository institution, financial institution, trust company, warehouseman, or other depositary, or by any person having such property in his possession or under his control. Similarly, a multiple original of an affidavit satisfying the requirements of this Article shall be full and sufficient authority for the transfer to the heirs or legatees of the deceased, and surviving spouse in community, if any, or to their assigns, of any stock or registered bonds in the name of the deceased and described in the affidavit, by any domestic or foreign corporation.

B. The receipt of the persons named in the affidavit as heirs or legatees of the deceased, or surviving spouse in community thereof, constitutes a full release and discharge for the payment of money or delivery of property made under the provisions of this Article. Any creditor, heir, legatee, succession representative, or other person whatsoever shall have no right or cause of action against the person paying the money, or delivering the property, or transferring the stock or bonds, under the provisions of this Article, on account of such payment, delivery, or transfer.

C.(1) A multiple original of the affidavit, to which has been attached a certified copy of the deceased's death certificate, shall be recorded in the conveyance records in the office of the clerk of court in the parish where any immovable property described therein is situated, after at least ninety days have elapsed from the date of the deceased's death.

(2) An affidavit so recorded, or a certified copy thereof, shall be admissible as evidence in any action involving immovable property to which it relates or is affected by the instrument, and shall be prima facie evidence of the facts stated therein, including the relationship to the deceased of the parties recognized as heir, legatee, surviving spouse in community, or usufructuary as the case may be, and of their rights in the immovable property of the deceased.

(3) An action by a person who claims to be a successor of a deceased person, but who has not been recognized as such in an affidavit authorized by Article 3432 or 3432.1, to assert an interest in property formerly owned by the deceased, against a third person who has acquired an interest in the property, or against his successors by onerous title, is prescribed two years from the date of the recording of the affidavit in accordance with this Paragraph.

Amended by Acts 1974, No. 524, §1; Acts 2009, No. 81, §1, eff. June 18, 2009; Acts 2011, No. 323, §1, eff. June 29, 2011; Acts 2021, No. 44, §2, eff. June 1, 2021.

Art. 3603. Temporary restraining order; affidavit or affirmation of irreparable injury and notification efforts

A. A temporary restraining order shall be granted without notice when all of the following occur:

(1) It clearly appears from specific facts shown by a verified petition, by supporting affidavit, or by affirmation as provided in Article 3603.1(C)(3) that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.

(2) The applicant's attorney certifies to the court in writing the efforts which have been made to give the notice or the reasons supporting his claim that notice should not be required.

B. The verification or the affidavit may be made by the plaintiff, or by his counsel, or by his agent.

C. No court shall issue a temporary restraining order in cases where the issuance shall stay or enjoin the enforcement of a child support order when the Department of Children and Family Services is providing services, except for good cause shown by written reasons made a part of the record.

Acts 1997, No. 1156, §2; Acts 1999, No. 1200, §4, Acts 2001, No. 430, §1; Acts 2003, No. 750, §1; Acts 2004, No. 502, §1; Acts 2021, No. 394, §1.

Art. 3603.1. Governing provisions for issuance of protective orders; grounds; notice; court-appointed counsel

A. Notwithstanding any provision of law to the contrary, and particularly the provisions of Domestic Abuse Assistance, Part II of Chapter 28 of Title 46, Post-Separation Family Violence Relief Act and Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of Title 9, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, and this Chapter, no temporary restraining order or preliminary injunction prohibiting a spouse or other person from harming or going near or in the proximity of another shall issue, unless the complainant has good and reasonable grounds to fear for his or her safety or that of the children, or the complainant has in the past been the victim of domestic abuse by the other spouse.

B. Any person against whom such an order is issued shall be entitled to a court-appointed attorney if the applicant has likewise been afforded a court-appointed attorney, which right shall also be included in any order or notice.

C.(1) A complainant seeking protection from domestic abuse, dating violence, stalking, or sexual assault shall not be required to prepay or be cast with court costs or costs of service of subpoena for the issuance or dissolution of a temporary restraining order, preliminary or permanent injunction, or protective order , or the dismissal of a petition for such, and the clerk of court shall immediately file and process the order issued regardless of the ability of the plaintiff to pay court costs.

(2) When the complainant is seeking protection from domestic abuse, stalking, or sexual assault, the clerk of court shall make forms available for making application for protective orders, provide clerical assistance to the petitioner when necessary, provide the necessary forms, and provide the services of a notary, where available, for completion of the petition.

(3) When a complainant is seeking a temporary restraining order for protection from domestic abuse, dating violence, stalking, or sexual assault, it is sufficient for the petition to contain a written affirmation signed and dated by the complainant that the facts and circumstances contained in the complaint are true and correct to the best knowledge, information, and belief of the complainant, under penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a witness who shall sign and print his name.

Added by Acts 1997, No. 1156, §2; Acts 1999, No. 1200, §4; Acts 2001, No. 430, §1; Acts 2003, No. 750, §1; Acts 2004, No. 502, §1; Acts 2014, No. 355, §1; Acts 2021, No. 394, §1.

Art. 3943. Appeal from judgment awarding, modifying, or denying custody, visitation, or support

An appeal from a judgment awarding, modifying, or denying custody, visitation, or support of a person can be taken only within the delay provided in Article 3942. Such an appeal shall not suspend execution of the judgment insofar as the judgment relates to custody, visitation, or support.

Acts 1993, No. 261, §3, eff. Jan. 1, 1994; Acts 2021, No. 259, §2.

Art. 3947. Name confirmation

A. Marriage does not change the name of either spouse. However, a married person may use the surname of either or both spouses as a surname.

B. The court may enter an order confirming the name of a spouse in a divorce proceeding, whether the person is the plaintiff or defendant, which confirmation shall be limited to the name that the person was using at the time of the marriage, or the name of the person's minor children, or the person's surname on the birth certificate, without complying with the provisions of R.S. 13:4751 through 4755. This Article shall not be construed to allow an amendment to a birth certificate with the Bureau of Vital Statistics.

Acts 1987, No. 836, §1; Acts 2021, No. 259, §2.

Art. 4566. Management of affairs of the interdict

A. Except as otherwise provided by law, the relationship between interdict and curator is the same as that between minor and tutor. The rules provided by Articles 4261 through 4269, 4270 through 4274, 4301 through 4342, and 4371 apply to curatorship of interdicts. Nevertheless, provisions establishing special rules for natural tutors and parents shall not apply in the context of interdiction.

B. A curator who owns an interest in property with the interdict or who holds a security interest or lien that encumbers the property of the interdict may acquire the property, or any interest therein, from the interdict upon compliance with Article 4271, with prior court authorization, and when it would be in the best interest of the interdict. Except for good cause shown, the court shall appoint an independent appraiser to value the interest to be acquired by the curator.

C. A curator may accept donations made to the interdict. A curator shall not make donations of the property of the interdict except as provided by law.

D. A curator may place the property of the interdict in trust in accordance with the provisions of Article 4269.1. The trust shall be subject to termination at the option of the interdict upon termination of the interdiction, or if the interdict dies during the interdiction, at the option of his heirs or legatees.

E. A curator shall inform the undercurator reasonably in advance of any material changes in the living arrangements of the interdict and any transactions materially affecting his person or affairs.

F. A curator shall not establish or move the place of dwelling of the interdict outside this state without prior court authorization.

G. A curator may not consent to an abortion or sterilization of the interdict without prior court authorization.

H. Neither a curator nor a court shall admit or commit an interdict to a mental health treatment facility except in accordance with the provisions of R.S. 28:50 through 64.

I. A curator appointed in an order of temporary interdiction shall have no authority to admit the defendant to a residential or long- term care facility in the absence of good cause shown at a contradictory hearing.

J. A curator shall allow communication, visitation, and interaction between an interdict who is over the age of eighteen years and a relative of the interdict by blood, adoption, or affinity within the third degree, or another individual who has a relationship with the interdict based on or productive of strong affection if it would serve the best interest of the interdict.

K. Notwithstanding the requirements of Article 4270 or any other provision of law to the contrary, a curator shall have authority to access deposit accounts held in the name of the interdict and authority to establish and maintain deposit accounts in the name of the "curator on behalf of the interdict", unless the letters of curatorship expressly limit such authority.

Acts 2000, 1st Ex. Sess., No. 25, §3, eff. July 1, 2001; Acts 2016, No. 110, §2, eff. May 19, 2016; Acts 2021, No. 163, §1.

Art. 4607. Partition by licitation or by private sale

When a partition is to be made by licitation, the sale shall be conducted at public auction and after the advertisements required for judicial sales under execution. When a partition is to be made at private sale without the consent of all co-owners, the sale shall be for not less than the appraised value of the property, and documents required pursuant to a court order shall be executed on behalf of the absentee or nonconsenting co-owner by a court-appointed representative, who may be a co-owner, after the advertisements required for judicial sales under execution are made. All counsel of record, including curators appointed to represent absentee defendants, and persons appearing in proper person shall be given notice of the sale date. At any time prior to the sale, the parties may agree upon a nonjudicial partition.

Acts 1990, No. 832, §1; Acts 2020, No. 281, §2, eff. June 11, 2020; Acts 2021, No. 27, §2, eff. June 1, 2021.

Art. 4622. Petition

A. The petition for the partition of property in which an absentee owns an interest, under the articles of this Chapter, shall allege the facts showing that the absent and unrepresented defendant is an absentee, as defined in Article 5251, shall describe the property sought to be partitioned and allege the ownership interests thereof, and shall be supported by an affidavit of the petitioner or of his counsel that the facts alleged in the petition are true.

B.(1) If the partition is to be made by private sale, the petition for partition between the co-owners shall have first priority status by the court and shall include all of the following:

(a) The primary terms of the proposed sale.

(b) The name of the proposed purchaser and whether the proposed purchaser is a co-owner or third party in accordance with Civil Code Article 811(B).

(c) The source or location of funds to be used in the sale.

(d) If the proposed purchaser is a juridical entity, including but not limited to corporations, limited liability companies, partnerships, and sole proprietorships, and whether that entity has a relationship with any co-owner.

(e) Whether any costs associated with the sale will be paid to any person related to the petitioning co-owners within the fourth degree or a juridical entity in which the co-owner has a direct or indirect financial interest.

(2) Upon judgment of the court ordering the sale, payment shall be made within twenty-four hours using cash or certified funds.

Acts 2020, No. 281, §2, eff. June 11, 2020; Acts 2021, No. 27, §2, eff. June 1, 2021.

Art. 4624. Publication of notice

Notice of the institution of the proceeding shall be published at least once in the parish where the partition proceeding is instituted, in the manner provided by law. This notice shall set forth the title and docket number of the proceeding, the name and address of the court, a description of the property sought to be partitioned, and the primary terms of the private sale and shall notify the absent defendant that the plaintiff is seeking to have the property partitioned by licitation or by private sale under Civil Code Article 811, this Chapter, and Chapter 1 of this Title, and that the absent defendant has fifteen days from the date of the publication of notice, or of the initial publication of notice if there is more than one publication, to answer the plaintiff's petition.

Acts 2020, No. 281, §2, eff. June 11, 2020; Acts 2021, No. 27, §2, eff. June 1, 2021.

Art. 4625. Trial; judgment ordering sale

A. Except as otherwise provided in Article 4630, if the petitioner proves on the trial of the proceeding that he is a co-owner of the property and entitled to the partition thereof and that the defendant is an absentee who owns an interest therein, the court shall render judgment ordering either the public sale of the property for cash by the sheriff to effect a partition, after the advertisement required by law for a sale under execution or the private sale of the property executed on behalf of the absentee or nonconsenting co-owner by a court-appointed representative, who may be a co-owner, under this Chapter and Chapter 1 of this Title, and after the advertisement required by law for a sale under execution.

B. The judgment shall determine the absentee's share in the proceeds of the sale, and award a reasonable fee to the attorney appointed to represent him to be paid from the absentee's share of the proceeds of the sale.

Acts 2020, No. 281, §2, eff. June 11, 2020; Acts 2021, No. 27, §2, eff. June 1, 2021.

Art. 4843. City court jurisdiction; amount in dispute; injunctive actions by state or political subdivision

A. Except as otherwise provided for in this Article, the civil jurisdiction of a city court is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed fifteen thousand dollars.

B. The civil jurisdiction of a city court in which the population of the territorial jurisdiction is greater than fifty thousand is concurrent with the district court in cases or proceedings instituted by the state, a parish, a municipality, or other political subdivision of the state for injunctive relief or other civil relief for the cessation or abatement of any acts or practices which may violate a

parish or municipal ordinance or state law. In such case, the court has jurisdiction regardless of the amount in dispute or the value of the property involved.

C. In the City Court of Bossier City, and any city court in which the population of the territorial jurisdiction is less than fifty thousand, except as otherwise specifically provided by law, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed fifteen thousand dollars.

D. In the City Court of Houma and the City Court of Lafayette, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed twenty thousand dollars.

E. In the City Court of Bogalusa, the City Court of Bunkie, the City Court of Eunice, the City Court of Marksville, the City Court of Natchitoches, a city court in New Orleans, the City Court of Opelousas, the City Court of Port Allen, the City Court of Ville Platte, and the City Court of Winnsboro, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed twenty-five thousand dollars.

F. In the City Court of Breaux Bridge, the City Court of Crowley, the City Court of Hammond, the City Court of Jeanerette, the City Court of Jennings, the City Court of New Iberia, the City Court of Monroe, the City Court of Oakdale, the City Court of Rayne, and the City Court of Winnfield, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed thirty thousand dollars.

G. In the City Court of Abbeville, the City Court of Baker, the City Court of Baton Rouge, the City Court of Kaplan, the City Court of Leesville, the City Court of Minden, the City Court of Plaquemine, the City Court of Shreveport, the City Court of Springhill, and the City Court of Zachary, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed thirty-five thousand dollars.

H. In the City Court of Alexandria, the Third Ward City Court of Franklin, the City Court of Pineville, the City Court of Slidell, the City Court of Ruston, the City Court of Sulphur, and the City Court of Lake Charles, the civil jurisdiction is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed fifty thousand dollars.

Acts 1986, No. 539, §1; Acts 1986, No. 924, §1; Acts 1988, No. 75, §1; Acts 1988, No. 314, §1; Acts 1990, No. 186, §1; Acts 1990, No. 504, §1, eff. July 18, 1990; Acts 1992, No. 10, §1; Acts 1992, No. 939, §1; Acts 1993, No. 541, §1; Acts 1995, No. 126, §1; Acts 1995, No. 204, §1; Acts 1995, No. 311, §1, eff. June 16, 1995; Acts 1995, No. 466, §1; Acts 1997, No. 193, §1, eff. Jan. 1, 1998; Acts 1997, No. 323, §1; Acts 1997, No. 407, §1; Acts 1999, No. 504, §1, eff. Jan. 1, 2000; Acts 1999, No. 644, §1; Acts 1999, No. 694, §1; Acts 2001, No. 255, §1; Acts 2001, No. 343, §1, eff. Jan. 1, 2001; Acts 2001, No. 357, §1; Acts 2001, No. 762, §1, eff. June 25, 2001; Acts 2002, 1st Ex. Sess., No. 58, §1; Acts 2003, No. 153, §1; Acts 2003, No. 276, §1; Acts 2003, No. 435, §1; Acts 2003, No. 436, §1; Acts 2003, No. 601, §1; Acts 2003, No. 905, §2; Acts 2003, No. 1213, §1; Acts 2004, No. 205, §1; Acts 2004, No. 487, §1; Acts 2004, No. 511, §1; Acts 2004, No. 538, §1; Acts 2004, No. 539, §1; Acts 2004, No. 714, §1; Acts 2005, No. 31, §1; Acts 2005, No. 109, §1; Acts 2005, No. 349, §1; Acts 2005, No. 353, §1; Acts 2006, No. 365, §1; Acts 2006, No. 379, §1; Acts 2006, No. 575, §1; Acts 2006, No. 680, §1; Acts 2006, No. 681, §1; Acts 2008, No. 44, §1; Acts 2010, No. 161, §1; Acts 2010, No. 180, §1; Acts 2010, No. 228, §1; Acts 2011, No. 88, §1; Acts 2011, No. 103, §1, eff. June 20, 2011; Acts 2012, No. 166, §1; Acts 2012, No. 331, §1; Acts 2013, No. 68, §1; Acts 2014, No. 363, §1; Acts 2014, No. 843, §1; Acts 2015, No. 367, §1; Acts 2015, No. 461, §1, eff. July 1, 2015; Acts 2019, No. 135, §1; Acts 2020, No. 205, §3, eff. June 11, 2020; Acts 2021, No. 251, §1.

CHAPTER 3. RECUSAL OF JUDGES; APPOINTMENT OF JUDGES AD HOC

Art. 4861. Recusal of judges

A parish court or city court judge or justice of the peace may recuse himself or be recused for the same reasons and on the same grounds as provided in Article 151.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4862. Motion to recuse

When a written motion is made to recuse a parish court or city court judge or a justice of the peace, the judge or justice of the peace shall either recuse himself, or the motion to recuse shall be tried in the manner provided by Article 4863.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4863. Determination of recusal; appointment of judge ad hoc

A. In a parish or city court having more than one judge, the motion to recuse shall be tried by another judge of the same court. The manner in which the judge is selected to try the recusal shall be provided by rule of court.

B. In all other cases, the motion shall be tried by an ad hoc judge appointed by the supreme court.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4864. Appointment of judge ad hoc after recusal

A. When a judge of a parish or city court recuses himself or is recused, another judge of the same court shall be appointed to try the cause, if that court has more than one division. The manner in which the judge is selected to try the cause shall be provided by rule of court. In all other cases, an ad hoc judge shall be appointed by the supreme court to try the cause.

B. When a justice of the peace recuses himself, another justice of the peace shall be appointed by the supreme court to try the cause.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4865. Appointment of judge ad hoc in event of temporary inability of parish or city court judge to preside

When a parish or city court judge is unable to preside due to temporary absence, incapacity, or inability, he may appoint a judge ad hoc, who may be another judge or who may be a lawyer domiciled in the parish who possesses the qualifications of the judge he replaces. Appointment

shall be by order, which shall reflect the term of and reasons for the appointment, and which shall be entered into the minutes of the court.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4866. Power and authority of judge ad hoc

A judge ad hoc appointed under the provisions of Articles 4861 through 4865 shall have the same power and authority to act on the causes or on the dates to which appointed as the judge whom he replaces would have.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1.

Art. 4873. Transfer to district court; procedure; contest; effect

A party entitled thereto under the provisions of Article 4872 may transfer the action to the district court in the following manner:

(1) Within the delay allowed for answer in the trial court of the limited jurisdiction, or within ten days after answer has been filed, he shall file a motion to transfer with the clerk of the court in which the suit is pending. The motion shall include a declaration that the matter is one to which defendant would have been entitled to trial by jury if commenced in district court, and that defendant desires trial by jury. If a party fails to file a motion to transfer within the delays required by this Subparagraph, the matter shall not be transferred.

(2) If no opposition is filed within ten days after the filing of the motion to transfer, the judge of the court in which the suit is pending shall order the transfer to the district court. If an opposition is timely filed, it shall be tried summarily.

(3) Where a transfer is ordered, the clerk of the court in which the action was initially filed shall forward to the clerk of court to which the action is transferred a certified copy of the record in the initial court, including pleadings, minute entries, and all other proceedings.

The clerk of the district court shall file the action as a new proceeding in that court, upon payment by the defendant of a filing fee as provided by rule of the district court. All costs accruing thereafter, however, shall be advanced in the same manner as though the action initially had been commenced in the district court by the original plaintiff.

(4) When the matter is docketed by the clerk of the district court, the proceeding shall continue in that court as though originally commenced therein. In the event transfer is effected prior to answer, defendant shall file his answer in the district court within the delays provided by Article 1001, commencing from the date the transferred proceeding is filed in that court.

(5) The disposition of a motion to transfer and any opposition thereto shall not be appealable, but shall be reviewable through the exercise of its supervisory jurisdiction by the court of appeal having appellate jurisdiction over the case.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2020, 1st Ex. Sess., No. 37, §2, eff. Jan. 1, 2021.

NOTE: Art. 4904 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 4904. Final default judgment in parish and city courts

A. In suits in a parish court or a city court, if the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff proves his case, a final default judgment in favor of plaintiff may be rendered. No preliminary default is necessary.

B. The plaintiff may obtain a final default judgment only by producing relevant and competent evidence which establishes a prima facie case. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. When the sum due is on an open account, promissory note, negotiable instrument, or other conventional obligation, a hearing in open court shall not be required unless the judge in his discretion directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed final default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed final default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the final default judgment. A certified copy of the signed final default judgment shall be sent to the plaintiff by the clerk of court.

D. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a final default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the final default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

NOTE: Art. 4904 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 4904. Default judgment in parish and city courts

A. In suits in a parish court or a city court, if the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff establishes a prima facie case by competent and admissible evidence, a default judgment in favor of the plaintiff may be rendered.

B. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. When the sum due is on an open account, promissory note, negotiable instrument, or other conventional obligation, a hearing in open court shall not be required unless the judge in his discretion directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the default judgment. A certified copy of the signed default judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing of the default judgment shall be given as provided in Article 1913.

D. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

Acts 1986, No. 156, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §5, eff. Jan. 1, 2022; Acts 2021, No. 259, §2.

Art. 4907. New trials; delay in parish or city courts

A. After judgment is signed in the parish or city court, a party may make a written request or motion for new trial for any of the grounds provided by Articles 1972 and 1973.

B. The delay for applying for a new trial shall be seven days, exclusive of legal holidays. Where notice of judgment is required, a party may file a motion for a new trial not later than seven days, exclusive of legal holidays, after the clerk has mailed, or the sheriff has served, the notice of judgment.

Acts 1986, No. 156, §1; Acts 2010, No. 56, §1; Acts 2021, No. 259, §2.

Art. 4912. Possession or ownership of movable property; eviction proceedings; justice of the peace courts

A.(1) A justice of the peace court shall, within its territorial jurisdiction, have jurisdiction, concurrent with the parish or district court, over suits for the possession or ownership of movable property not exceeding five thousand dollars in value and over suits by landowners or lessors for the eviction of occupants or tenants of leased residential premises, regardless of the amount of monthly or yearly rent or the rent for the unexpired term of the lease.

(2) A judgment of ownership of a vehicle ordered by a justice of the peace court shall be recognized by the office of motor vehicles of the Department of Public Safety and Corrections in accordance with the provisions of Chapter 4 of Title 32 of the Louisiana Revised Statutes of 1950.

(3) The provisions of this Paragraph shall also be applicable to suits for possession and ownership of a manufactured home, as defined by R.S. 9:1149.2, not exceeding five thousand dollars in value.

B. A justice of the peace court shall also have jurisdiction over suits by landowners or lessors for the eviction of occupants or tenants of leased commercial premises and leased farmlands where the amount of the monthly rental does not exceed five thousand dollars per month, regardless of the amount of rent due or the rent for the unexpired term of the lease.

Acts 1989, No. 298, §1; Acts 1991, No. 544, §1; Acts 2001, No. 713, §1, eff. June 25, 2001; Acts 2005, No. 43, §1; Acts 2008, No. 338, §1; Acts 2021, No. 25, §2.

Art. 4913. Limitations upon jurisdiction; nature of proceedings; justice of the peace courts

A. In addition to the limitation by the amount in dispute as set forth above, the jurisdiction of justice of the peace courts is limited by the nature of the proceeding, as set forth below.

B. A justice of the peace court has no jurisdiction in any of the following cases or proceedings:

(1) A case involving title to immovable property.

(2) A case involving the right to public office or position.

(3) A case in which the plaintiff asserts civil or political rights under the federal or state constitutions.

(4) A claim for annulment of marriage, separation from bed and board, divorce, separation of property, custody, visitation, spousal support, or child support.

(5) A succession, interdiction, receivership, liquidation, habeas corpus, or quo warranto proceeding.

(6) A case in which the state, or a parish, municipal, or other political corporation is a defendant.

(7) An executory proceeding.

(8) An adoption, tutorship, emancipation, or partition proceeding.

(9) An in rem or quasi in rem proceeding.

(10) Any other case or proceeding excepted from the jurisdiction of these courts by law.

C. In addition, a justice of the peace court may not issue any injunctive order, except to arrest the execution of its own writ and to enforce the execution of a judgment issued by a justice of the peace court or made executory in a justice of the peace court.

Acts 1986, No. 156, §1; Acts 1991, No. 545, §1; Acts 2021, No. 259, §2.

NOTE: Art. 4921 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 4921. Final default judgment; justice of the peace courts; district courts with concurrent jurisdiction

A. If the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff proves his case, a final default judgment in favor of plaintiff may be rendered. No preliminary default is necessary.

B. The plaintiff may obtain a final default judgment only by producing relevant and competent evidence which establishes a prima facie case. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a final default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the final default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

NOTE: Art. 4921 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 4921. Default judgment; justice of the peace courts; district courts with concurrent jurisdiction

A. If the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff establishes a prima facie case by competent and admissible evidence, a default judgment in favor of the plaintiff may be rendered.

B. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. When the demand is based upon a right acquired by assignment in an open account, promissory note, or other negotiable instrument, the court may raise an objection of prescription before entering a default judgment if the grounds for the objection appear from the pleadings or from the evidence submitted by the plaintiff. If the court raises an objection of prescription, it shall not enter the default judgment unless the plaintiff presents prima facie proof that the action is not barred by prescription. Upon the plaintiff's request, the court shall hold a hearing for the submission of such proof.

Acts 1986, No. 156, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §5, eff. Jan. 1, 2022; Acts 2021, No. 259, §2.

Art. 4921.1. Demand for trial; abandonment; applicability

A. After the lapse of fifteen days from the date the answer to the suit is filed pursuant to Article 4920, any party may make written demand to have the case set for trial. The judge shall give notice of trial within forty-five days of the answer being filed. The court shall issue notice of trial to be held within forty-five days of that date.

B. Notwithstanding the three-year period for abandonment as provided by Article 561, if the parties fail to take any step in the prosecution or defense of the action for a period of one year, the action shall otherwise be subject to the procedures for abandonment as provided by Article 561, provided that the court has jurisdiction over the subject matter.

NOTE: Paragraph (C) eff. until Jan. 1, 2022. See Acts 2021, No. 174.

C.(1) Notwithstanding the provisions of Paragraph A of this Article, the justice of the peace or clerk may set the matter for trial upon filing of a petition. The date, time, and location of the trial shall be contained in the citation. The first scheduled trial date shall be not more than forty-five days, nor less than ten days, from the service of the citation. If the defendant appears, he need not file an answer unless ordered to do so by the court. If a defendant who has been served with citation fails to appear at the time and place specified in the citation, the judge may enter a final default judgment for the plaintiff in the amount proved to be due. If the plaintiff does not appear, the judge may enter an order dismissing the action without prejudice.

(2) If a matter has been set for trial pursuant to Subparagraph (1) of this Paragraph, no final default judgment shall be rendered prior to the trial date.

NOTE: Paragraph (C) as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

C.(1) Notwithstanding the provisions of Paragraph A of this Article, the justice of the peace or clerk may set the matter for trial upon filing of a petition. The date, time, and location of the trial shall be contained in the citation. The first scheduled trial date shall be not more than forty-five days, nor less than ten days, from the service of the citation. If the defendant appears, he need not file an answer unless ordered to do so by the court. If a defendant who has been served with citation fails to appear at the time and place specified in the citation, the judge may enter a default

judgment for the plaintiff in the amount proved to be due. If the plaintiff does not appear, the judge may enter an order dismissing the action without prejudice.

(2) If a matter has been set for trial pursuant to Subparagraph (1) of this Paragraph, no default judgment shall be rendered prior to the trial date.

Acts 2005, No. 489, §1; Acts 2015, No. 424, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

CHAPTER 3. APPEALS FROM CITY AND PARISH COURTS

Art. 5001. Appeals from city and parish courts

A. An appeal from a judgment rendered by a parish court or by a city court shall be taken to the court of appeal.

B. Appeal shall be on the record and shall be taken in the same manner as an appeal from the district court.

Acts 1986, No. 156, §1; Acts 2001, No. 1134, §1; Acts 2021, No. 259, §2.

NOTE: Art. 5095 eff. until Jan. 1, 2022. See Acts 2021, No. 174.

Art. 5095. Same; defense of action

The attorney at law appointed by the court to represent a defendant shall use reasonable diligence to inquire of the defendant, and to determine from other available sources, what defense, if any, the defendant may have, and what evidence is available in support thereof.

Except in an executory proceeding, the attorney may except to the petition, shall file an answer or other pleading in time to prevent a final default judgment from being rendered, may plead therein any affirmative defense available, may prosecute an appeal from an adverse judgment, and generally has the same duty, responsibility, and authority in defending the action or proceeding as if he had been retained as counsel for the defendant.

NOTE: Art. 5095 as amended by Acts 2021, No. 174, eff. Jan. 1, 2022.

Art. 5095. Same; defense of action

A. The attorney at law appointed by the court to represent a defendant shall use reasonable diligence to inquire of the defendant, and to determine from other available sources, what defense, if any, the defendant may have, and what evidence is available in support thereof.

B. Except in an executory proceeding, the attorney may except to the petition, shall file an answer or other pleading in time to prevent a default judgment from being rendered, may plead therein any affirmative defense available, may prosecute an appeal from an adverse judgment, and generally has the same duty, responsibility, and authority in defending the action or proceeding as if he had been retained as counsel for the defendant.

Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

Art. 5183. Affidavits of poverty; documentation; order

A. A person who wishes to exercise the privilege granted in this Chapter shall apply to the court for permission to do so in his first pleading, or in an ex parte written motion if requested later, to which the applicant shall annex the following:

(1) The applicant's affidavit that the applicant is unable to pay the costs of court in advance, or as they accrue, or to furnish security therefor, because of the applicant's poverty and lack of means, accompanied by any supporting documentation.

(2) The affidavit of a third person other than the applicant's attorney that he knows the applicant, knows the applicant's financial condition, and believes that the applicant is unable to pay the costs of court in advance, or as they accrue, or to furnish security therefor.

(3) A recommendation from the clerk of court's office as to whether or not it feels the litigant is in fact indigent, and thus unable to pay the cost of court in advance, or as they accrue, or to furnish security therefor, if required by local rule of the court.

B.(1) Upon the filing of the completed application and supporting affidavits, the court shall render an order that does one of the following:

(a) Grants the application and allows the applicant to litigate or to continue the litigation without paying the costs in advance.

(b) Denies the application with written reasons for such denial.

(c) Sets the matter for a contradictory hearing.

(2) The submission by the applicant of supporting documentation that the applicant is receiving public assistance benefits or that the applicant's income is less than or equal to one hundred twenty-five percent of the federal poverty level shall create a rebuttable presumption that the applicant is entitled to the privilege granted in this Chapter. If the court finds that the presumption has been rebutted, it shall provide written reasons for its finding.

(3) The court may reconsider its original order granting the application on its own motion at any time in a contradictory hearing.

Amended by Acts 1984, No. 456, §1; Acts 1997, No. 1122, §1, eff. July 14, 1997; Acts 1997, No. 1205, §1; Acts 2021, No. 416, §1.

Art. 5185. Rights of party permitted to litigate without payment of costs

A. When an order of court permits a party to litigate without the payment of costs until this order is rescinded or expires, the party is entitled to:

(1) All services required by law of a sheriff, clerk of court, court reporter, notary, or other public officer in, or in connection with, the judicial proceeding, including but not limited to the filing of pleadings and exhibits, the issuance of certificates, the certification of copies of notarial acts and public records, the issuance and service of subpoenas and process, the taking and transcribing of testimony, and the preparation of a record of appeal.

(2)(a) The right to the compulsory attendance of not more than six witnesses for the purpose of testifying, either in court or by deposition, without the payment of the fees, mileage, and other expenses allowed these witnesses by law. If a party has been permitted to litigate without full payment of costs and is unable to pay for witnesses desired by the party, in addition to those summoned at the expense of the parish, the party shall make a sworn application to the court for the additional witnesses. The application shall allege that the testimony is relevant and material and not cumulative and that the defendant cannot safely go to trial without it. A short summary of the expected testimony of each witness shall be attached to the application.

(b) The court shall make a private inquiry into the facts and, if satisfied that the party is entitled to the privilege, shall render an order permitting the party to subpoena additional witnesses at the expense of the parish. If the application is denied, the court shall state the reasons for the denial in writing, which shall become part of the record.

(3) The right to a trial by jury and to the services of jurors, when allowed by law and applied for timely.

(4) The right to have any judgment or order filed and to receive one certified copy of the judgment or order.

(5) The right to a devolutive appeal, and to apply for supervisory writs.

B. The party is not entitled to a suspensive appeal, or to an order or judgment required by law to be conditioned on his furnishing security other than for costs, unless the party furnishes the necessary security therefor.

C. No public officer is required to make any cash outlay to perform any duty imposed on him under any Article in this Chapter, except to pay witnesses summoned at the expense of the parish the witness fee and mileage to which they are entitled.

Amended by Acts 1964, No. 4, §1. Acts 1984, No. 541, §1; Acts 2021, No. 416, §1.