LOUISIANA CODE OF CIVIL PROCEDURE 2023

About the Book

Formatted and compiled with the practitioners and law students in mind, this edition of the Louisiana Code of Civil Procedure has easy to read text on letter size pages that reads across the whole page (no dual columns) and a detailed table of contents that allows you to quickly access the provision you need. Contains all articles as amended through the 2022 Legislative Sessions.

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TITLE I. COURTS

CHAPTER 1. JURISDICTION

Art. 1. Jurisdiction defined

Jurisdiction is the legal power and authority of a court to hear and determine an action or proceeding involving the legal relations of the parties, and to grant the relief to which they are entitled.

Art. 2. Jurisdiction over subject matter

Jurisdiction over the subject matter is the legal power and authority of a court to hear and determine a particular class of actions or proceedings, based upon the object of the demand, the amount in dispute, or the value of the right asserted.

Art. 3. Same; cannot be conferred by consent

The jurisdiction of a court over the subject matter of an action or proceeding cannot be conferred by consent of the parties. A judgment rendered by a court which has no jurisdiction over the subject matter of the action or proceeding is void.

Art. 4. Same; determination when dependent on amount in dispute or value of right asserted

When the jurisdiction of a court over the subject matter of an action depends upon the amount in dispute, or value of the right asserted, it shall be determined by the amount demanded, including damages pursuant to Civil Code Articles 2315.3 and 2315.4, or value asserted in good faith by the plaintiff, but the amount in dispute does not include interest, court costs, attorney fees, or penalties, whether provided by agreement or by law.

Acts 1995, No. 409, §1.

Art. 5. Same; effect of reduction of claim

When a plaintiff reduces his claim on a single cause of action to bring it within the jurisdiction of a court and judgment is rendered thereon, he remits the portion of his claim for which he did not pray for judgment, and is precluded thereafter from demanding it judicially.

Art. 6. Jurisdiction over the person

A. Jurisdiction over the person is the legal power and authority of a court to render a personal judgment against a party to an action or proceeding. The exercise of this jurisdiction requires:

(1) The service of process on the defendant, or on his agent for the service of process, or the express waiver of citation and service under Article 1201.

(2) The service of process on the attorney at law appointed by the court to defend an action or proceeding brought against an absent or incompetent defendant who is domiciled in this state.
(3) The submission of the party to the jurisdiction of the court by commencing an action or by the waiver of objection to jurisdiction by failure to timely file the declinatory exception.

B. In addition to the provisions of Paragraph A, a court of this state may exercise personal jurisdiction over a nonresident on any basis consistent with the constitution of this state and with the Constitution of the United States.
Acts 1997, No. 578, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000.

Art. 7. Repealed by Acts 1997, No. 578, §5.

Art. 8. Jurisdiction over property; in rem

A court which is otherwise competent under the laws of this state has jurisdiction to enforce a right in, to, or against property having a situs in this state, claimed or owned by a nonresident.
Acts 1995, No. 1104, §1.

Art. 9. Same; quasi in rem; attachment

A court which is otherwise competent under the laws of this state has jurisdiction to render a money judgment against a nonresident if the action is commenced by an attachment of his property in this state. Unless the nonresident subjects himself personally to the jurisdiction of the court, the judgment may be executed only against the property attached.
Acts 1995, No. 1104, §1.

Art. 10. Jurisdiction over status

A. A court which is otherwise competent under the laws of this state has jurisdiction of the following actions or proceedings only under the following conditions:

(1) An adoption proceeding in accordance with Title XII of the Children's Code, if the surrendering parent of the child, the prospective adoptive parent, the adoptive parent or parents, or any parent of the child has been domiciled in this state for at least eight months, or if the child is in the custody of the Department of Children and Family Services; and an adoption proceeding in accordance with Civil Code Article 212, if either party to the adoption of an adult is domiciled in this state.

(2) An emancipation proceeding if the minor is domiciled in this state.

(3) An interdiction proceeding brought pursuant to the provisions of the Louisiana Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

(4) A tutorship or curatorship proceeding if the minor or absentee, as the case may be, is domiciled in this state or has property herein.

(5) A proceeding to obtain the legal custody of a minor if he is domiciled in, or is in, this state.

(6) An action to annul a marriage if one or both of the parties are domiciled in this state.

(7) An action of divorce, if, at the time of filing, one or both of the spouses are domiciled in this state.

(8) Unless otherwise provided by law, an action to establish parentage and support or to disavow parentage if the child is domiciled in or is in this state, and was either born in this state,

born out of state while its mother was domiciled in this state, or acknowledged in this state. However, regardless of the location of the child or its place of birth, an action to disavow may be brought if the person seeking to disavow was domiciled in this state at the time of conception and birth and is presumed to be its parent under the laws of this state.

(9) A proceeding for support of an adult child with a disability, as provided in R.S. 9:315.22(E), if he is domiciled in, or is in, this state.

B. For purposes of Subparagraphs (6) and (7) of Paragraph A of this Article, if a spouse has established and maintained a residence in a parish of this state for a period of six months, there shall be a rebuttable presumption that he has a domicile in this state in the parish of such residence.

Amended by Acts 1968, No. 172, §1; Acts 1980, No. 764, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 1999, No. 1243, §1, eff. Jan. 1, 2000; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2001, No. 567, §2; Acts 2001, No. 1064, §1; Acts 2008, No. 351, §2, eff. Jan. 1, 2009; Acts 2015, No. 379, §2, eff. Aug. 1, 2016; Acts 2016, No. 333, §2.

Art. 11. Military personnel

For the purpose of status jurisdiction provided for in Article [illegible], a person not domiciled elsewhere in this state who is serving in the armed forces of the United States and has been stationed at one or more military installations in this state for at least six months and has resided in the parish where an action has been filed in which he is a party, for at least ninety days immediately preceding the filing of such action, is considered to be a domiciliary of this state and of the parish during the period of his service at such installation.

Acts 2008, No. 801, §2, eff. Jan. 1, 2009.

Art. 12. to Art. 40 [Repealed]

CHAPTER 2. VENUE

SECTION 1. GENERAL DISPOSITIONS

Art. 41. Definition

Venue means the parish where an action or proceeding may properly be brought and tried under the rules regulating the subject.

Art. 42. General rules

The general rules of venue are that an action against:

(1) An individual who is domiciled in the state shall be brought in the parish of his domicile; or if he resides but is not domiciled in the state, in the parish of his residence.

(2) A domestic corporation, a domestic insurer, or a domestic limited liability company shall be brought in the parish where its registered office is located.

(3) A domestic partnership, or a domestic unincorporated association, shall be brought in the parish where its principal business establishment is located.

(4) A foreign corporation or foreign limited liability company licensed to do business in this state shall be brought in the parish where its principal business establishment is located as designated in its application to do business in the state, or, if no such designation is made, then in the parish where its primary place of business in the state is located.

(5) A foreign corporation or a foreign limited liability company not licensed to do business in the state, or a nonresident who has not appointed an agent for the service of process in the manner provided by law, other than a foreign or alien insurer, shall be brought in the parish of the plaintiff's domicile or in a parish where the process may be, and subsequently is, served on the defendant.
(6) A nonresident, other than a foreign corporation or a foreign or alien insurer, who has appointed an agent for the service of process in the manner provided by law, shall be brought in the parish of the designated post office address of an agent for the service of process.
(7) A foreign or alien insurer shall be brought in the parish of East Baton Rouge.
Amended by Acts 1961, No. 23, §1; Acts 1990, No. 487, §1; Acts 1999, No. 145, §2; Acts 2001, No. 23, §1; Acts 2003, No. 545, §1; Acts 2012, No. 126, §1.

Art. 43. Exceptions to general rules

The general rules of venue provided in Article 42 are subject to the exceptions provided in Section 2 of Chapter 2 of Title 1 of Book 1 of this Code and otherwise provided by law.
Amended by Acts 1982, No. 649, §1; Acts 2013, No. 78, §1.

Art. 44. Waiver of objections to venue

A. An objection to the venue may not be waived prior to the institution of the action.

B. The venue provided in Articles 2006, 2811, 2812, 3941, 3993, 4031 through 4034, and 4542 may not be waived.

C. Except as otherwise provided in this article or by other law, any objection to the venue, including one based on any article in this Chapter, is waived by the failure of the defendant to plead the declinatory exception timely as provided in Article 928.
Amended by Acts 1961, No. 23, §1; Acts 2010, No. 185, §1.

Art. 45. Conflict between two or more articles in Chapter

The following rules determine the proper venue in cases where two or more articles in this Chapter may conflict:
(1) Article 78, 79, 80, 81, 82, 83, 84, 86, or 87 governs the venue exclusively, if this article conflicts with any of Articles 42 and 71 through 77;
(2) If there is a conflict between two or more of Articles 78, 79, 80, 81, 82, 83, 84, 86, or 87, the plaintiff may bring the action in any venue provided by any applicable article; and
(3) If Articles 78, 79, 80, 81, 82, 83, 84, 86, and 87 are not applicable, and there is a conflict between two or more of Articles 42 and 71 through 77, the plaintiff may bring the action in any venue provided by any applicable article.
Amended by Acts 1982, No. 649, §1; Acts 2013, No. 78, §1.

Art. 46. to Art. 70 [Repealed]

SECTION 2. EXCEPTIONS TO GENERAL RULES

Art. 71. Action against individual who has changed domicile

An action against an individual who has changed his domicile from one parish to another may be brought in either parish for a period of one year from the date of the change, unless he has filed a declaration of intention to change his domicile, in the manner provided by law.

Art. 72. Certain actions involving property

An action in which a sequestration is sought, or an action to enforce a mortgage or privilege by an ordinary proceeding, may be brought in the parish where the property, or any portion thereof, is situated.

Acts 1997, No. 1055, §1.

Art. 73. Action against joint or solidary obligors

A. An action against joint or solidary obligors may be brought in a parish of proper venue, under Article 42 only, as to any obligor who is made a defendant, provided that an action for the recovery of damages for an offense or quasi-offense against joint or solidary obligors may be brought in the parish where the plaintiff is domiciled if the parish of plaintiff's domicile would be a parish of proper venue against any defendant under either Article 76 or R.S. 13:3203.

B. If the action against this defendant is settled, compromised prior to judgment, or dismissed after a trial on the merits, the venue shall remain proper as to the other defendants, unless the joinder was made for the sole purpose of establishing venue as to the other defendants.

Acts 1989, No. 117, §1.

Art. 74. Action on offense or quasi offense

An action for the recovery of damages for an offense or quasi offense may be brought in the parish where the wrongful conduct occurred, or in the parish where the damages were sustained. An action to enjoin the commission of an offense or quasi offense may be brought in the parish where the wrongful conduct occurred or may occur.

As used herein, the words "offense or quasi offense" include a nuisance and a violation of Article 667 of the Civil Code.

Amended by Acts 1962, No. 92, §1.

Art. 74.1. Action to establish or disavow filiation

An action to establish filiation and support of a child may be brought in the parish: (1) of the domicile of the child, (2) where conception occurred, (3) where either parent resided at the time of conception, (4) where an act of acknowledgement of the child occurred, or (5) where the birth of the child occurred.

An action to disavow filiation may be brought in the parish of the child's birth, or where either parent resided at the time of that birth.

Added by Acts 1980, No. 764, §3. Amended by Acts 1981, No. 722, §1.

Art. 74.2. Custody proceedings; support; forum non conveniens

A. A proceeding to obtain the legal custody of a child or to establish an obligation of support may be brought in the parish where a party is domiciled or in the parish of the last matrimonial domicile.

B. A proceeding for change of custody may be brought in the parish where the person awarded custody is domiciled or in the parish where the custody decree was rendered. If the person awarded custody is no longer domiciled in the state, the proceeding for change of custody may be brought in the parish where the person seeking a change of custody is domiciled or in the parish where the custody decree was rendered.

C. A proceeding for modification of support may be brought in any of the following:

(1) The parish where the person awarded support is domiciled if the award has been registered in that parish pursuant to the provisions of Article 2785 et seq., regardless of the provisions of Article 2786(A) relative to the domicile of the parties.

(2) The parish where the support award was rendered if it has not been registered and confirmed in another court of this state, pursuant to the provisions of Article 2785 et seq.

(3) The parish where the support award was last registered if registered in multiple courts of this state.

(4) Any of the following, if the person awarded support is no longer domiciled in the state:

(a) The parish where the other person is domiciled.

(b) The parish where the support award was rendered if not confirmed in another court of this state pursuant to Article 2785 et seq.

(c) The parish where the support order was last confirmed pursuant to the provisions of Article 2785 et seq.

D. A proceeding to register a child support, medical support, and income assignment order, or any such order issued by a court of this state for modification, may be brought in the parish where the person awarded support is domiciled.

E. For the convenience of the parties and the witnesses and in the interest of justice, a court, upon contradictory motion or upon its own motion after notice and hearing, may transfer the custody or support proceeding to another court where the proceeding might have been brought.

F. Notwithstanding any other provision of law, if after August 26, 2005, and before August 15, 2007, a party has changed his domicile within the state and the other party resided in another state prior to the hurricanes, the custody or support proceeding shall be transferred to the parish of the domicile, upon motion made prior to December 31, 2007.

Acts 1987, No. 417, §1; Acts 1997, No. 603, §1; Acts 2007, No. 99, §1; Acts 2010, No. 689, §1, eff. June 29, 2010; Acts 2015, No. 379, §2, eff. Aug. 1, 2016.

Art. 74.3. Marriage of persons related by adoption

Persons related by adoption seeking judicial authorization to marry in accordance with Civil Code Article 90 shall request authorization of the district court in the parish of either party's domicile.

Acts 1987, No. 886, §2, eff. Jan. 1, 1988.

Art. 74.4. Action on an open account or a promissory note

A. An action to collect an open account may be brought in the parish where the open account was created or where the services that formed the basis of such open account were performed, or in the parish of the domicile of the debtor.

B. An action on a promissory note may be brought in the parish where the promissory note was executed or in the parish of the domicile of the debtor.

Acts 2007, No. 433, §1; Acts 2008, No. 357, §1, eff. June 26, 2008.

Art. 74.5. Adult adoption

An action to authorize an adult adoption in accordance with the second paragraph of Civil Code Article 212 may be brought in the parish of the domicile of either party to the adoption.

Acts 2008, No. 351, §2, eff. Jan. 1, 2009.

Art. 74.6. Actions to seek court approval by parents during marriage

During the marriage of a minor's parents, an action to seek court approval to alienate, encumber, or lease the property of the minor, incur an obligation of the minor, or compromise a claim of the minor may be brought in the domicile of the minor, or if the parents seek to compromise a claim of the minor in a pending action, in that action.

Acts 2015, No. 260, §2, eff. Jan. 1, 2016.

Art. 75. Action on judicial bond

A. An action against the principal or surety, or both, on a bond filed in a judicial proceeding may be brought in the court where the bond was filed.

B. An action against a legal surety may be brought in any parish where the principal obligor may be sued.

Acts 1987, No. 409, §2, eff. Jan. 1, 1988.

Art. 76. Action on insurance policy

An action on a life insurance policy may be brought in the parish where the deceased died, the parish where he was domiciled, or the parish where any beneficiary is domiciled.

An action on a health and accident insurance policy may be brought in the parish where the insured is domiciled, or in the parish where the accident or illness occurred.

An action on any other type of insurance policy may be brought in the parish where the loss occurred or the insured is domiciled.

Art. 76.1. Action on contract

An action on a contract may be brought in the parish where the contract was executed or the parish where any work or service was performed or was to be performed under the terms of the contract.

Acts 1991, No. 217, §2.

Art. 77. Action against person doing business in another parish

An action against a person having a business office or establishment in a parish other than that where he may be sued under Article 42 only, on a matter over which this office or establishment had supervision, may be brought in the parish where this office or establishment is located.

Acts 1989, No. 117, §1.

Art. 78. Action against partners of existing partnership

Except as provided in Article 79, an action against a partner of an existing partnership on an obligation of the latter, or on an obligation growing out of the partnership, shall be brought in any parish of proper venue as to the partnership.

Art. 79. Action to dissolve partnership

An action for the dissolution of a partnership shall be brought in the parish where it has or had its principal business establishment.

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.

Art. 81. Action involving succession

When a succession has been opened judicially, until rendition of the judgment of possession, the following actions shall be brought in the court in which the succession proceeding is pending:

(1) A personal action by a creditor of the deceased; but an action brought against the deceased prior to his death may be prosecuted against his succession representative in the court in which it was brought;
(2) An action to partition the succession;
(3) An action to annul the testament of the deceased; and
(4) An action to assert a right to the succession of the deceased, either under his testament or by effect of law.

Art. 82. Action to partition community property

A. Except as otherwise provided in this Article, an action to partition community property and to settle the claims between the parties arising from either a matrimonial regime or from co-ownership of former community property shall be brought either as an incident of the action which would result in the termination of the community property regime or as a separate action in the parish where the judgment terminating the community property regime was rendered.

B. If the spouses own community immovable property, the action to partition the community property, movable and immovable, and to settle the claims between the parties arising either from a matrimonial regime or from co-ownership of former community property may be brought in the parish in which any of the community immovable property is situated.

C. If the spouses do not own community immovable property, the action to partition the community property and to settle the claims between the parties arising either from a matrimonial regime or from co-ownership of former community property may be brought in the parish where either party is domiciled.
Acts 1997, No. 1055, §1.

Art. 83. Action to partition partnership property

Except as otherwise provided in the second paragraph of this article, an action to partition partnership property shall be brought either as an incident of the action to dissolve the partnership, or as a separate action in the court which rendered the judgment dissolving the partnership.

If the partnership owns immovable property, the action to partition the partnership property, movable and immovable, may be brought in the parish where any of the immovable property is situated.

Art. 84. Action involving certain retirement systems and employee benefit programs

Actions involving the Louisiana State Employees' Retirement System, Office of Group Benefits, State Police Pension and Relief Fund, Louisiana School Employees' Retirement System, Louisiana School Lunch Employees' Retirement System, Teachers' Retirement System of Louisiana, Assessors' Retirement Fund, Clerks of Court Retirement and Relief Fund, District Attorneys' Retirement System, Municipal Employees' Retirement System of Louisiana, Parochial Employees' Retirement System of Louisiana, Registrar of Voters Employees' Retirement System, Sheriffs' Pension and Relief Fund, Municipal Police Employees' Retirement System, or the Firefighters' Retirement System shall be brought in the parish of East Baton Rouge or in the parish of the domicile of the retirement system or employee benefit program.
Added by Acts 1980, No.164, §1.

Amended by Acts 1982, No.103, §1; Acts 2001, No. 1178, §8, eff. June 29, 2001.

Art. 85. Action against domestic corporation; charter revoked by secretary of state

An action against a domestic corporation, the charter and franchise of which have been administratively revoked by the secretary of state in accordance with R.S. 12:163, may be brought in any parish where the suit could have been brought prior to revocation.
Added by Acts 1982, No.649, §1.

Art. 86. Action involving voting trusts

An action against a voting trust or trustee of the voting trust, or both, may be brought:
(1) In the parish or parishes where the document or documents creating the voting trust were executed.
(2) If stock transferred to the voting trust was held by an inter vivos trust, in the parish or parishes where the inter vivos trust documents were executed.
(3) If stock transferred to the voting trust was held by a mortis causa trust, in the parish having jurisdiction over the settlor's estate.
Acts 1998, 1st Ex. Sess., No. 102, §2, eff. May 5, 1998.

Art. 87. [Repealed.]

Art. 88. to Art. 120 [Repealed]

SECTION CHANGE OF VENUE

Art. 121. Action brought in improper venue; transfer

When an action is brought in a court of improper venue, the court may dismiss the action, or in the interest of justice transfer it to a court of proper venue.

Art. 122. Change of proper venue

Any party by contradictory motion may obtain a change of venue upon proof that he cannot obtain a fair and impartial trial because of the undue influence of an adverse party, prejudice existing in the public mind, or some other sufficient cause. If the motion is granted, the action shall be transferred to a parish wherein no party is domiciled.

Art. 123. Forum non conveniens

A.(1) For the convenience of the parties and the witnesses, in the interest of justice, a district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer a civil case to another district court where it might have been brought; however, no suit brought in the parish in which the plaintiff is domiciled, and in a court which is otherwise a court of competent jurisdiction and proper venue, shall be transferred to any other court pursuant to this Article.

(2) For purposes of Subparagraph (1) of this Paragraph, domicile shall be the location pursuant to Article 42 where the plaintiff would be subject to suit had he been a defendant.

B. Upon the contradictory motion of any defendant in a civil case filed in a district court of this state in which a claim or cause of action is predicated upon acts or omissions originating outside the territorial boundaries of this state, when it is shown that there exists a more appropriate forum outside of this state, taking into account the location where the acts giving rise to the action occurred, the convenience of the parties and witnesses, and the interest of justice, the court may dismiss the suit without prejudice; however, no suit in which the plaintiff is domiciled in this state, and which is brought in a court which is otherwise a court of competent jurisdiction and proper venue, shall be dismissed pursuant to this Article.

C. In the interest of justice, and before the rendition of the judgment of dismissal, the court shall require the defendant or defendants to file with the court a waiver of any defense based upon prescription that has matured since the commencement of the action in Louisiana, provided that a suit on the same cause of action or on any cause of action arising out of the same transaction or occurrence is commenced in a court of competent jurisdiction in an appropriate foreign forum within sixty days from the rendition of the judgment of dismissal. Such waiver shall be null and of no effect if such suit is not filed within this sixty-day period. The court may further condition the judgment of dismissal to allow for reinstatement of the same cause of action in the same forum in the event a suit on the same cause of action or on any cause of action arising out of the same transaction or occurrence is commenced in an appropriate foreign forum within sixty days after the rendition of the judgment of dismissal and such foreign forum is unable to assume jurisdiction over the parties or does not recognize such cause of action or any cause of action arising out of the same transaction or occurrence.

Added by Acts 1970, No. 294, §1; Acts 1988, No. 818, §1, eff. July 18, 1988; Acts 1999, No. 536, §1, eff. June 30, 1999; Acts 2012, No. 715, §1.

Art. 124. Forum non conveniens; transfer to city court

If a party has filed separate suits in a district court and a city court within the territorial jurisdiction of the district court relating to the same cause of action but placing a claim for property damage in one court and a claim for personal injury in the other court, the district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer the suit in its court to the city court if the transfer serves the convenience of the parties and the witnesses and is in the interest of justice.

Acts 1985, No. 600, §1.

Art. 125. to Art. 150 [Repealed]

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. Recusation on court's own motion or by supreme court

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. Judge may act until recused or motion for recusation filed

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, not later than seven days after the judge's receipt of the motion from the clerk of court, 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; Acts 2022, No. 38, §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.

C. If the motion to recuse 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 for a hearing but shall provide written reasons for the denial.

Redesignated from C.C.P. Art. 160 and amended by Acts 2021, No. 143, §1; Acts 2022, No. 38, §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 Article 158

Art. 161. Redesignated as Article 159

Art. 162. to Art. 190 [Repealed]

CHAPTER 4. POWER AND AUTHORITY

SECTION 1. GENERAL DISPOSITIONS

Art. 191. Inherent judicial power

A court possesses inherently all of the power necessary for the exercise of its jurisdiction even though not granted expressly by law.

Art. 192. Appointment of expert witnesses; expenses

A. The appointment of expert witnesses is controlled by Louisiana Code of Evidence Article 706.

B. The reasonable fees and expenses of these experts shall be taxed as costs of court.
Amended by Acts 1988, No. 515, §2, eff. Jan. 1, 1989.

Art. 192.1. Interpreters for deaf and severely hearing-impaired persons

A. In all civil cases and in the taking of any deposition where a party or a witness is a deaf or severely hearing-impaired person, the proceedings of the trial shall be interpreted to him in a language that he can understand by a qualified interpreter appointed by the court. The qualification of an interpreter as an expert is governed by the Louisiana Code of Evidence.

B. In any case in which an interpreter is required to be appointed by the court under the provisions of this Article, the court shall not commence proceedings until the appointed interpreter is in court. The interpreter so appointed shall take an oath or affirmation that he will make a true interpretation to the deaf or severely hearing-impaired person of all the proceedings of the case in a language that he understands, and that he will repeat the deaf or severely hearing-impaired person's answer to questions to counsel, court or jury to the best of his skill and judgment.

C.(1) Interpreters appointed in accordance with the provisions of this Article shall be paid an amount determined by the judge presiding. In the event travel of the interpreter is necessary, all of the actual expenses of travel, lodging, and meals incurred by the interpreter in connection with the case at which the interpreter is appointed to serve shall be paid at the same rate applicable to state employees.

(2) The costs of such interpreter shall be borne by the court.
Added by Acts 1968, No. 319, §1. Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 1989, No. 109, §1; Acts 1995, No. 285, §1, eff. June 14, 1995.

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.

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.

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 or 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.

Art. 195. Same; judicial proceedings

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.

Art. 195.1. Judicial proceedings by audio-visual means

A. A hearing on any motion or exception may be conducted by any audio-visual means at the discretion of the court. If witness testimony is necessary, a party may request that the hearing be conducted in person.

B. A judge trial may be conducted by any audio-visual means with the consent of all parties and permission of the court.

Acts 2022, No. 372, §1.

Art. 196. Repealed by Acts 2021, No. 68, §3, 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. 196.2. Power of supreme court to extend deadlines during emergencies

In the event that the governor declares a state of emergency or disaster pursuant to R.S. 29:721 through 775, the Supreme Court of Louisiana, rather than the governor, may issue orders suspending or extending deadlines applicable to legal proceedings in courts, including periods of time applicable for abandonment of actions, in all or part of the state of Louisiana. A court order suspending or extending deadlines applicable to legal proceedings in courts shall have the effect of extending only those deadlines that would have otherwise accrued during the period of time specified in the order. After the period of suspension or extension has expired, a party shall have an amount of time as specified in the court's order to file any pleading affected by the suspension or extension. If no amount of time is specified, a party shall have thirty days after the period of suspension or extension has expired.

Acts 2022, No. 469, §2.

Art. 197. Testimony of inmates

A. As used in this Article, "inmate" means a person confined in any prison, jail, correctional or training institution operated by the state, any of its political subdivisions, or any sheriff either while awaiting disposition of contemplated or pending criminal charges, pursuant to a sentence imposed by a court following the conviction of a crime, or pursuant to the judgment of a juvenile court.

B. When in any judicial proceeding the testimony of an inmate is required by law to be given in open court, when an inmate is a party to a judicial proceeding under circumstances giving him the legal right to be present in open court at any stage of the proceeding, or when the presence of an inmate witness in open court is requested timely by a party to litigation and is justified under

the facts and circumstances of the case, the trial judge, in his discretion, may order any of the following:
(1) The court be convened and the testimony of the inmate be taken, or the proceedings conducted at the institution wherein the inmate is confined.
(2) The testimony of the inmate be taken, or the proceedings conducted, by teleconference, video link, or other available remote technology approved by the judge, or by telephone if agreed to by all parties and approved by the judge.
(3) If the interests of justice require the presence of the inmate in open court and if no other methodology authorized hereunder is feasible, the court may order that the prisoner be transported to the courthouse pursuant to R.S. 15:706(D).
Added by Acts 1975, No. 403, §1; Acts 2001, No. 842, §1, eff. June 26, 2001.

Art. 198. to Art. 220 [Repealed]

SECTION 2. POWER TO PUNISH FOR CONTEMPT

Art. 221. Kinds of contempt

A contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

Contempts of court are of two kinds, direct and constructive.

Art. 222. Direct contempt

A direct contempt of court is one committed in the immediate view and presence of the court and of which it has personal knowledge, or a contumacious failure to comply with a subpoena or summons, proof of service of which appears of record.

Any of the following acts constitutes a direct contempt of court:
(1) Contumacious, insolent, or disorderly behavior toward the judge, or an attorney or other officer of the court, tending to interrupt or interfere with the business of the court, or to impair its dignity or respect for its authority;
(2) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or interfere with the business of the court, or to impair its dignity or respect for its authority;
(3) Use of insulting, abusive, or discourteous language by an attorney or other person in open court, or in a pleading, brief, or other document filed with the court in irrelevant criticism of another attorney or of a judge or officer of the court;
(4) Violation of a rule of the court adopted to maintain order and decorum in the court room;
(5) Contumacious failure to comply with a subpoena, proof of service of which appears of record, or refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the court; and
(6) Contumacious failure to attend court to serve as a juror after being accepted as such, or to attend court as a member of a jury venire, when proof of service of the summons appears of record.

Art. 222.1. Direct contempt; fingerprinting and photographing; exception

No person arrested or found guilty for the first offense of direct contempt of court either for failure to attend court as a member of a jury venire when proof of service of the summons appears on the record or for failure to comply with a subpoena to attend court to serve as a witness when proof of service of the subpoena appears on the record shall be subject to fingerprinting or have his photograph taken in any arrest or postsentence procedure.
Acts 1985, No. 937, §1.

Art. 223. Same; procedure for punishing

A person who has committed a direct contempt of court may be found guilty and punished therefor by the court forthwith, without any trial other than affording him an opportunity to be heard orally by way of defense or mitigation. The court shall render an order reciting the facts constituting the contempt, adjudging the person guilty thereof, and specifying the punishment imposed.

Art. 224. Constructive contempt

A constructive contempt of court is any contempt other than a direct one.
Any of the following acts constitutes a constructive contempt of court:
(1) Wilful neglect or violation of duty by a clerk, sheriff, or other person elected, appointed, or employed to assist the court in the administration of justice;
(2) Wilful disobedience of any lawful judgment, order, mandate, writ, or process of the court;
(3) Removal or attempted removal of any person or property in the custody of an officer acting under authority of a judgment, order, mandate, writ, or process of the court;
(4) Deceit or abuse of the process or procedure of the court by a party to an action or proceeding, or by his attorney;
(5) Unlawful detention of a witness, party, or his attorney, while going to, remaining at, or returning from the court where the action or proceeding is to be tried;
(6) Improper conversation by a juror or venireman with a party to an action which is being, or may be, tried by a jury of which the juror is a member, or of which the venireman may be a member, or with any person relative to the merits of such an action; or receipt by a juror or venireman of a communication from any person with reference to such an action, without making an immediate disclosure to the court of the substance thereof;
(7) Assuming to act as a juror, or as an attorney or other officer of the court, without lawful authority;
(8) Comment by a newspaper or other medium for the dissemination of news upon a case or proceeding, then pending and undecided, which constitutes a clear, present, and imminent danger of obstructing or interfering with the orderly administration of justice, by either influencing the court to reach a particular decision, or embarrassing it in the discharge of its judicial duties;
(9) Wilful disobedience by an inferior court, judge, or other officer thereof, of the lawful judgment, order, mandate, writ, or process of an appellate court, rendered in connection with an appeal from a judgment or order of the inferior court, or in connection with a review of such judgment or order under a supervisory writ issued by the appellate court; and
(10) Any other act or omission punishable by law as a contempt of court, or intended to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority, and which is not a direct contempt.

(11) Knowingly making a false statement or representation of a material fact or knowingly failing to disclose a material fact in order to apply for or receive support enforcement services for the purpose of securing an order of paternity, child support, medical support, an income assignment order, or a notice of income assignment against another person.
Acts 2004, No. 159, §1, eff. June 10, 2004.

Art. 225. Same; procedure for punishing

A. Except as otherwise provided by law, a person charged with committing a constructive contempt of court may be found guilty thereof and punished therefor only after the trial by the judge of a rule against him to show cause why he should not be adjudged guilty of contempt and punished accordingly. The rule to show cause may issue on the court's own motion or on motion of a party to the action or proceeding and shall state the facts alleged to constitute the contempt. A person charged with committing a constructive contempt of a court of appeal may be found guilty thereof and punished therefor after receiving a notice to show cause, by brief, to be filed not less than forty-eight hours from the date the person receives such notice, why he should not be found guilty of contempt and punished accordingly. The person so charged shall be granted an oral hearing on the charge if he submits a written request to the clerk of the appellate court within forty-eight hours after receiving notice of the charge. Such notice from the court of appeal may be sent by registered or certified mail or may be served by the sheriff. In all other cases, a certified copy of the motion, and of the rule to show cause, shall be served upon the person charged with contempt in the same manner as a subpoena at least forty-eight hours before the time assigned for the trial of the rule.

B. If the person charged with contempt is found guilty the court shall render an order reciting the facts constituting the contempt, adjudging the person charged with contempt guilty thereof, and specifying the punishment imposed.
Amended by Acts 1984, No. 530, §2.

Art. 226. Same; imprisonment until performance

When a contempt of court consists of the omission to perform an act which is yet in the power of the person charged with contempt to perform, he may be imprisoned until he performs it, and in such a case this shall be specified in the court's order.

Art. 227. Punishment for contempt

A person may not be adjudged guilty of a contempt of court except for misconduct defined as such, or made punishable as such, expressly by law.

The punishment which a court may impose upon a person adjudged guilty of contempt of court is provided in R.S. 13:4611.

Art. 228. to Art. 250 [Repealed]

CHAPTER 5. CLERKS

SECTION 1. GENERAL DISPOSITIONS

Art. 251. Custodian of court records; certified copies; records public

A. The clerk of court is the legal custodian of all of its records and is responsible for their safekeeping and preservation. He may issue a copy of any of these records, certified by him under the seal of the court to be a correct copy of the original. Except as otherwise provided by law, he shall permit any person to examine, copy, photograph, or make a memorandum of any of these records at any time during which the clerk's office is required by law to be open. However, notwithstanding the provisions of this Paragraph or R.S. 44:31 et seq., the use, placement, or installation of privately owned copying, reproducing, scanning, or any other such imaging equipment, whether hand-held, portable, fixed, or otherwise, within the offices of the clerk of court is prohibited unless ordered by a court of competent jurisdiction.

B. Notwithstanding the provisions of Paragraph A of this Article, a judge issuing a court order may certify a copy of that order for service of process, if the order is issued in an emergency situation and at a time when the clerk of court's office is not open. A determination of when an emergency situation exists shall be made by the judge issuing the order.

Acts 1986, No. 218, §1; Acts 1995, No. 372, §1, eff. July 1, 1995; Acts 2005, No. 193, §1.

Art. 252. Issuance of process

The clerk of a court shall issue all citations, writs, mandates, summons, subpoenas, and other process of the court in the name of the State of Louisiana. He shall indicate thereon the court from which they issue, sign them in his official capacity, and affix the seal of the court thereto. If service by the sheriff is required, the clerk shall deliver or mail them to the sheriff who is to make the service.

Art. 253. Pleadings, documents, and exhibits to be filed with clerk

A. All pleadings or documents to be filed in an action or proceeding instituted or pending in a court, and all exhibits introduced in evidence, shall be delivered to the clerk of the court for such purpose. The clerk shall endorse thereon the fact and date of filing and shall retain possession thereof for inclusion in the record, or in the files of his office, as required by law. The endorsement of the fact and date of filing shall be made upon receipt of the pleadings or documents by the clerk and shall be made without regard to whether there are orders in connection therewith to be signed by the court.

B. The filings as provided in Paragraph A of this Article and all other provisions of this Chapter may be transmitted electronically in accordance with a system established by a clerk of court or by Louisiana Clerks' Remote Access Authority. When such a system is established, the clerk of court shall adopt and implement procedures for the electronic filing and storage of any pleading, document, or exhibit, and the official record shall be the electronic record. A pleading or document filed electronically is deemed filed on the date and time stated on the confirmation of electronic filing sent from the system, if the clerk of court accepts the electronic filing. Public access to electronically filed pleadings and documents shall be in accordance with the rules governing access to paper filings. The clerk of court may convert into an electronic record any

pleading, document, or exhibit as set forth in R.S. 44:116. The originals of conveyances shall be preserved by the clerk of court.

C. A judge or justice presiding over a court in this state may sign a court order, notice, official court document, and other writings required to be executed in connection with court proceedings, by use of an electronic signature as defined by R.S. 9:2602. The various courts shall provide by court rule for the method of electronic signature to be used and to ensure the authenticity of the electronic signature.

D. Any pleading or document in a traffic or criminal action may be filed with the court by facsimile transmission in compliance with the provision of the Code of Criminal Procedure Article 14.1.

E. The clerk shall not refuse to accept for filing any pleading or other document signed by electronic signature, as defined by R.S. 9:2602, and executed in connection with court proceedings, or which complies with the procedures for electronic filing implemented pursuant to this Article, if any applicable fees for filing and transmission are paid, solely on the ground that it was signed by electronic signature.

F. If the filing party fails to comply with any requirement of this Article, the electronic filing shall have no force or effect. The district courts may provide by court rule for other matters related to filings by electronic transmission.

G. The clerk of court may procure equipment, services, and supplies necessary to accommodate electronic filings out of the clerk's salary fund.

H. All electronic filings shall include an electronic signature. For the purpose of this Article, "electronic signature" means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Amended by Acts 1980, No. 355, §1; Acts 1985, No. 417, §1; Acts 2001, No. 319, §2; Acts 2010, No. 461, §1; Acts 2014, No. 606, §1; Acts 2017, No. 419, §4, eff. Jan. 1, 2018; Acts 2020, No. 264, §3; Acts 2022, No. 318, §1.

Art. 253.1. Pleadings; random assignment of cases

All pleadings filed shall be randomly assigned to a particular section or division of the court by either of the following methods:

(1) By drawing indiscriminately from a pool containing designations of all sections or divisions of court in the particular jurisdiction in which the case is filed.

(2) By use of a properly programmed electronic device or computer programmed to randomly assign cases to any one of the sections or divisions of court in the particular jurisdiction in which the case is filed.

Acts 1995, No. 829, §1.

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.

(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.

Art. 254. Docket and minute books

A. In addition to other record books required by law, each court shall keep docket and minute books.

B. The clerk of the court shall enter in the docket book the number and title of each action or proceeding filed in the court, the date of filing of the petition, exceptions, answers, and other pleadings, and the court costs paid by and the names of counsel of record for each of the parties.

C. All orders and judgments rendered, all motions made, all proceedings conducted, and all judicial acts of the court during each day it is in session shall be entered in the minute book.

D. An electronic record of the minutes which is not capable of alteration without indication that a change has been made may be maintained in lieu of a written entry.

Acts 1995, No. 1003, §1.

Art. 255. Deputy clerks and other employees

Except as otherwise provided by law, a deputy clerk of a court possesses all of the powers and authority granted by law to the clerk, and may perform any of the duties and exercise any of the functions of the clerk.

Deputy clerks and other employees of a clerk of court are subject to his direction and supervision, and shall perform the duties assigned to them by law, the court, and the clerk.

The clerk of a court is responsible for the performance or nonperformance of their official duties by his deputies and other employees.

Art. 256. Minute clerk

The minute clerk of a court shall keep the minutes of the court daily when in session and transcribe them into the minute book, as required by Article 254; shall file all pleadings and documents tendered for filing in open court; and shall perform such other duties as are assigned to him by law, the court, and the clerk with the approval of the court.

The minute clerk of a trial court shall administer the oath to jurors and witnesses and shall file all exhibits offered in evidence, when directed to do so by the court. If there are two or more judges on a trial court, its rules may require a minute clerk for each division thereof.

When a court has no minute clerk, and there is no deputy clerk available for such duty, the clerk shall perform all of the duties of the minute clerk.

Art. 257. Neglect, failure, or refusal of clerk, deputy, or other employee to perform duty subjects him to punishment for contempt

The neglect, failure, or refusal of a clerk, deputy clerk, or other employee of a clerk of court to perform any ministerial duty subjects him to punishment for contempt of court.

Art. 258. Electronic filing and recording of written instruments

A. Notwithstanding any provision of law to the contrary, a clerk of court, as ex officio recorder, the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages or its successor, hereinafter referred to as "recorder", is authorized to adopt and implement a published plan which shall include a written contract between the clerk of court, the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages, or its successor, and the filer, which complies with the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq., and which provides for the acceptance of an electronic record of any recordable written instrument except original maps, plats, property descriptions, or photographs as related to the work of a professional surveyor engaged in the "Practice of Land Surveying" as defined in R.S. 37:682 for filing and recording submitted by any person, department, political subdivision, agency, branch, entity, or instrumentality of Louisiana or of the federal government or of a state-chartered or federally chartered financial institution insured by the

Federal Deposit Insurance Corporation or the National Credit Union Administration. The filer of such an electronic record shall certify to the recorder that the written instrument from which the electronic record is taken conforms to all applicable laws relating to the form and content of instruments which are submitted in writing.

B. Immediately after acceptance of an electronic record for filing, the recorder shall endorse such record with the date, hour, and minute it is filed. An electronic filing received on a legal holiday or at any time other than during the normal business hours of the recorder shall be accepted for filing on the next business day by the same procedure followed when a paper document is received in the mail of the recorder at any time other than during normal business hours.

C. An electronic record shall be effective with respect to a third person from the time of its filing in the same manner as if the written instrument had been filed.

D. On or before January 1, 2022, each clerk of court, including the Orleans Parish register of conveyances or its successor and the Orleans Parish recorder of mortgages or its successor, shall adopt and implement a plan for recording electronic documents in accordance with Paragraph A of this Article.

Acts 2005, No. 125, §1; Acts 2008, No. 368, §1; Acts 2017, No. 173, §5.

Art. 259. Liability of clerk of court

The clerk of court shall not be liable for any damages caused by any third party to any information included in pleadings or documents filed of record by the clerk of court.

Acts 2017, No. 173, §5.

Art. 260. to Art. 280 [Repealed]

SECTION 2. CLERKS OF DISTRICT COURTS

Art. 281. Certain articles not applicable to Civil District Court for the Parish of Orleans

The provisions of Articles 282 through 286 do not apply to the clerk and the deputy clerks of the Civil District Court for the Parish of Orleans.

Art. 282. Acts which may be done by district court clerk

The clerk of a district court may:

(1) Grant an appeal and fix the return day thereof; fix the amount of the bond for an appeal, or for the issuance of a writ of attachment or of sequestration, or for the release of property seized under any writ, unless fixed by law; appoint an attorney at law to represent a nonresident, absent, incompetent, or unrepresented defendant; or dismiss without prejudice, on application of plaintiff, an action or proceeding in which no exception, answer, or intervention has been filed; and

(2) Probate a testament, when there is no opposition thereto; homologate an inventory; confirm or appoint a tutor, undertutor, undertutor ad hoc, curator, undercurator, undercurator ad hoc, administrator, executor, or dative testamentary executor, when there is no opposition thereto; appoint an attorney for absent heirs; and approve and accept the bond required of a legal representative for the faithful performance of his duties.

Art. 283. Orders and judgments which may be signed by district court clerk

A. The clerk of a district court may sign any of the following orders or judgments:

(1) An order or judgment effecting or evidencing the doing of any of the acts authorized in Article 282;

(2) An order for the issuance of executory process, of a writ of attachment or of sequestration, or of garnishment process under a writ of fieri facias, attachment, or of sequestration; the release under bond of property seized under a writ of attachment or of sequestration; or to permit the filing of an intervention;

(3) An order for the execution of a probated testament; the affixing of seals; the taking of an inventory; the public sale of succession property to pay debts, on the written application of the succession representative accompanied by a list of the debts of the succession; the advertisement of the filing of a tableau of distribution or of an account by a legal representative; or requiring a legal representative to file an account; or

(4) An order to permit a party to institute and prosecute, or to defend, a suit without the payment of costs, under the provisions of Articles 5181 through 5188.

B. When an order signed by the clerk requires the services of a notary, the clerk shall appoint the notary suggested by the party obtaining the order.

Acts 2010, No. 175, §1.

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. 285. Powers of district court clerk may be exercised whether judge absent from parish or not

The powers and authority granted to the clerk of a district court under Articles 282 through 284 may be exercised by him whether the judge of the district court is absent from the parish or not.

Art. 286. Powers of district court clerk which may not be exercised by deputy; powers of chief deputy clerk

A. No deputy clerk of a district court, except the chief deputy clerk, may exercise any of the powers and authority granted to the clerk of the district court under Articles 282 and 283.

B. Whether the judge or the clerk, or both, are absent from the parish or not, the chief deputy clerk of a district court may exercise all of the powers and authority granted to the clerk of a district court under Articles 282 and 283.

Acts 1991, No. 174, §1.

Art. 287. District court clerk ex officio notary

The clerk of a district court is ex officio a notary; and, as such, may administer oaths and exercise all of the other functions, powers, and authority of a notary.

Art. 288. Functions which district court clerk may exercise on holiday

The only functions which a clerk of a district court may exercise on a legal holiday are:
(1) The signing of an order for the issuance of a writ of attachment or of sequestration by a clerk of a district court other than the Civil District Court for the Parish of Orleans; and
(2) The issuance of a writ of attachment, sequestration, or injunction.

Art. 289. to Art. 320 [Repealed]

CHAPTER 6. SHERIFFS

Art. 321. Executive officer of district court; serves process, executes writs and mandates directed to him by courts

The sheriff is the executive officer of the district court.

He shall serve citations, summons, subpoenas, notices, and other process, and shall execute writs, mandates, orders, and judgments directed to him by the district courts, the courts of appeal, and the supreme court.

Art. 322. Exercises civil functions only in own parish; exception

Except as otherwise provided in Article 1201, the sheriff may exercise his civil functions only in the parish for which he was elected.

Art. 323. Writs executed on holiday

The sheriff shall not execute any writ, mandate, order, or judgment of a court in a civil case on a legal holiday, except a writ of attachment, sequestration, fieri facias, or seizure and sale under executory process, or an injunction.
Amended by Acts 1978, No. 709, §1.

Art. 324. Returns on process served, and writs and judgments executed

The sheriff shall make a return to the issuing court on citations, summons, subpoenas, notices, and other process, and on writs, mandates, orders, and judgments, showing the date on which and the manner in which they were served or executed.

Art. 325. Right of entry for execution; may require assistance of others if resistance offered or threatened

In the execution of a writ, mandate, order, or judgment of a court, the sheriff may enter on the lands, and into the residence or other building, owned or occupied by the judgment debtor or defendant. If necessary to effect entry, he may break open any door or window. If resistance is

offered or threatened, he may require the assistance of the police, of neighbors, and of persons present or passing by.

Art. 326. Protection and preservation of property seized

The sheriff shall take actual possession of all movable property seized which is susceptible of actual possession and may remove it to a warehouse or other place of safekeeping.

He may take actual possession of all immovable property seized, unless it is under lease or occupied by an owner.

He shall safeguard, protect, and preserve all property seized of which he has taken or is required to take actual possession; and for such purposes may appoint a keeper of the property.

Art. 327. Seizure of rents, fruits, and revenue of property under seizure

The seizure of property by the sheriff effects the seizure of the fruits and issues which it produces while under seizure. The sheriff shall collect all rents and revenue produced by property under seizure.

Art. 328. Power of administration of property under seizure

The sheriff has the power of administration of all property under seizure, regardless of the type of writ or mandate under authority of which the property was seized.

If immovable property is not occupied by an owner and is not under lease, the sheriff may lease it for a term not beyond the date of judicial sale. He cannot lease movable property under seizure unless authorized by the court with the consent of the parties.

The sheriff may, and if the necessary funds therefor are advanced or satisfactory security is furnished him by any interested person shall, continue the operation of any property under seizure, including a business, farm, or plantation. For such purposes, the sheriff may employ a manager and such other employees as he may consider necessary.

Art. 329. Disbursements for protection, preservation, and administration of seized property

The sheriff may make all necessary disbursements for the protection, preservation, and administration of property under seizure, which shall be taxed as costs of the seizure.

Art. 330. Collection of fines from, and imprisonment of, persons found guilty of contempt of court

The sheriff shall collect the fines which persons found guilty of contempt of court are sentenced to pay, and pay them over to the official entitled by law to receive them. He shall take into custody and imprison individuals found guilty of contempt of court and sentenced to imprisonment in the parish jail.

Art. 331. Deputy sheriffs and other employees

Except as otherwise provided by law, a deputy sheriff possesses all of the powers and authority granted by law to the sheriff, and may perform any of the duties and exercise any of the functions of the sheriff.

Deputy sheriffs and other employees of the sheriff are subject to his direction and supervision, and shall perform the duties assigned to them by law, and by the sheriff.

The sheriff is responsible for the performance or nonperformance of their official duties by his deputies and other employees.

Art. 332. Service or execution by constable or marshal

When authorized to do so by the sheriff, a constable of a justice of the peace court, or a constable or marshal of a city court, within the territorial jurisdiction of his court, may serve any process and execute any writ or mandate which the sheriff is authorized to serve or execute.

For such purpose, the constable or marshal possesses the powers and authority of the sheriff; a service or execution so made has the same effect as if made by the sheriff; and the latter is responsible for the performance or nonperformance of his duties by a constable or marshal in such cases.

Art. 333. Crier

The crier of a court shall attend all sessions thereof, under the direction of the judge shall open and close court at each session, and maintain order and decorum in the court room; and shall perform such other duties as are assigned to him by law, the court, or the sheriff.

The crier of a trial court, when requested to do so, shall call all witnesses in the building whose testimony is desired by the court or by a party.

When a court has no crier, and there is no deputy sheriff available for such duty, the sheriff shall perform the duties of crier.

Art. 334. Neglect, failure, or refusal of sheriff, deputy sheriff, or employee to perform duty subjects him to punishment for contempt

The neglect, failure, or refusal of a sheriff, deputy sheriff, or other employee of a sheriff to perform any ministerial duty subjects him to punishment for contempt of court.

Art. 335. to Art. 370 [Repealed]

CHAPTER 7. OTHER OFFICERS OF THE COURT

Art. 371. Attorney

An attorney at law is an officer of the court. He shall conduct himself at all times with decorum, and in a manner consistent with the dignity and authority of the court and the role which he himself should play in the administration of justice.

He shall treat the court, its officers, jurors, witnesses, opposing party, and opposing counsel with due respect; shall not interrupt opposing counsel, or otherwise interfere with or impede the orderly dispatch of judicial business by the court; shall not knowingly encourage or produce false evidence; and shall not knowingly make any misrepresentation, or otherwise impose upon or deceive the court.

For a violation of any of the provisions of this article, the attorney at law subjects himself to punishment for contempt of court, and such further disciplinary action as is otherwise provided by law.

Art. 372. Court reporter

A. The court reporter of a trial court, when directed by the court, shall report verbatim in shorthand by stenography or stenotype, or by voice recording or any other recognized manner when the equipment therefor has been approved by the court, the testimony of all witnesses, the other evidence introduced or offered, the objections thereto, and the rulings of the court thereon, on the trial of any appealable civil case or matter.

B. When the court so directs, or the fees therefor have been paid or secured, or when an appeal has been granted in cases in which a party has been permitted to litigate without the payment of costs, he shall transcribe verbatim in a manner approved by the supreme court, all of his notes taken at the trial, or such portion thereof as is designated. He shall file one copy of the transcript in the trial court; shall deliver a copy thereof to each of the parties who has paid therefor; and, when an appeal has been granted, he shall furnish to the clerk of the trial court the number of copies of the transcript required by law.

C. The court reporter shall retain all notes and tape recordings in civil cases for a period of not less than five years after the end of the trial. However, if the record of the trial is fully transcribed, the court reporter shall retain all notes and tape recordings which have been fully transcribed for a period of not less than two years after transcription is completed. The court reporter shall destroy any notes and tape recordings of any matter upon order of a court of competent jurisdiction.

D. The notes and tape recordings of any civil case which are retained by a court reporter pursuant to the provisions of this Article shall be the property of the court in which the case was heard. The court reporter shall have the duty to retain and maintain all such notes and tape recordings pursuant to the provisions of this Article, although the notes and tape recordings shall remain the property of the court.

E. He shall perform such other duties as are assigned to him by law or by the court.

F. When a party to a proceeding requests a transcript and has paid for the transcript, the court reporter shall provide that party with an electronic copy of the transcript along with a paper copy of the transcript at no additional charge or cost to the requesting party.

Acts 1986, No. 545, §1; Acts 2006, No. 820, §1, eff. July 5, 2006.

Art. 373. Expert appointed by court

An expert appointed by a trial court to assist it in the adjudication of a case in which his special skill and knowledge may aid the court is an officer of the court from the time of his qualification until the rendition of final judgment in the case.

Art. 374. Legal representative

A legal representative appointed or confirmed by a court is an officer of this court from the time of his qualification for the office until his discharge.

Art. 375. Neglect, failure, or refusal of expert or legal representative to perform a legal duty when ordered to do so, subjects him to punishment for contempt of court

BOOK II. ORDINARY PROCEEDINGS

TITLE I. PLEADING

CHAPTER 1. GENERAL DISPOSITIONS

Art. 851. Three modes of procedure; Book II governs ordinary proceedings

Three different modes of procedure are used in civil matters in the trial courts of this state: ordinary, summary, and executory.

The articles in this Book govern ordinary proceedings, which are to be used in the district courts in all cases, except as otherwise provided by law.

Summary and executory proceedings are regulated by the provisions of Book V.

Art. 852. Pleadings allowed; replicatory pleadings prohibited

The pleadings allowed in civil actions, whether in a principal or incidental action, shall be in writing and shall consist of petitions, exceptions, written motions, and answers. No replicatory pleadings shall be used and all new matter alleged in exceptions, contradictory motions, and answers, whether in a principal or incidental action, shall be considered denied or avoided.

Art. 853. Caption of pleadings; adoption by reference; exhibits

Every pleading shall contain a caption setting forth the name of the court, the title and number of the action, and a designation of the pleading. The title of the action shall state the name of the first party on each side with an appropriate indication of other parties.

A statement in a pleading may be adopted by reference in a different part of the same pleading or in another pleading in the same court. A copy of any written instrument that is an exhibit to a pleading is a part thereof.
Acts 2018, No. 195, §1.

Art. 854. Form of pleading

No technical forms of pleading are required.

All allegations of fact of the petition, exceptions, or answer shall be simple, concise, and direct, and shall be set forth in numbered paragraphs. As far as practicable, the contents of each paragraph shall be limited to a single set of circumstances.

Art. 855. Pleading special matters; capacity

Except as otherwise provided by law, it is not necessary to allege the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of a legal entity or an organized association of persons made a party. Such procedural capacity shall be presumed, unless challenged by the dilatory exception.
Acts 2018, No. 195, §1.

Art. 856. Same; fraud, mistake, or condition of the mind

In pleading fraud or mistake, the circumstances constituting fraud or mistake shall be alleged with particularity. Malice, intent, knowledge, and other condition of mind of a person may be alleged generally.

Art. 857. Same; suspensive conditions

In pleading the performance or occurrence of suspensive conditions, it is sufficient to allege generally that all such conditions have been performed or have occurred. A denial of performance or occurrence shall be alleged specifically and with particularity.

Art. 858. Same; official document or act

In pleading an official document or official act, it is sufficient to allege that the document was issued or the act done in compliance with law.

Art. 859. Same; judgment or decision

In pleading a judgment of a domestic or foreign court, or a decision of a judicial or quasi judicial tribunal, or of a board, commission, or officer, it is sufficient to allege the judgment or decision without setting forth matter showing jurisdiction to render it.

Art. 860. Same; time and place

For the purpose of testing the sufficiency of a pleading, allegations of time and place are material and shall be considered as all other allegations of material matter.

Art. 861. Same; special damage

When items of special damage are claimed, they shall be specifically alleged.

Art. 862. Relief granted under pleadings; sufficiency of prayer

Except as provided in Article 1703, a final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings and the latter contain no prayer for general and equitable relief.

Art. 863. Signing of pleadings; effect

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. 864. Attorney subject to disciplinary action

An attorney may be subjected to appropriate disciplinary action for a wilful violation of any provision of Article 863 or for the insertion of scandalous or indecent matter in a pleading.

Art. 865. Construction of pleadings

Every pleading shall be so construed as to do substantial justice.

Art. 866 to Art. 890 [Repealed]

CHAPTER 2. PETITION

Art. 891. Form of petition

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. 892. Alternative causes of action

Except as otherwise provided in Article 3657, a petition may set forth two or more causes of action in the alternative, even though the legal or factual bases thereof may be inconsistent or mutually exclusive. In such cases all allegations shall be made subject to the obligations set forth in Article 863.

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. 894 to Art. 920 [Repealed]

CHAPTER 3. EXCEPTIONS

Art. 921. Exception defined

An exception is a means of defense, other than a denial or avoidance of the demand, used by the defendant, whether in the principal or an incidental action, to retard, dismiss, or defeat the demand brought against him.

Art. 922. Kinds of exceptions

Three exceptions and no others shall be allowed: the declinatory exception, the dilatory exception, and the peremptory exception.

Art. 923. Functions of exceptions

The function of the declinatory exception is to decline the jurisdiction of the court, while the dilatory exception merely retards the progress of the action. But either exception tends to defeat the action. The function of the peremptory exception is to have the plaintiff's action declared legally nonexistent, or barred by effect of law, and hence this exception tends to dismiss or defeat the action.

Art. 924. Form of exceptions

All exceptions shall comply with Articles 853, 854, and 863, and, whenever applicable, with Articles 855 through 861. They shall set forth the name and surname of the exceptor, shall state with particularity the objections urged and the grounds thereof, and shall contain a prayer for the relief sought.

Art. 925. Objections raised by declinatory exception; waiver

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

(1) Insufficiency of citation.

(2) Insufficiency of service of process, including failure to request service of citation on the defendant within the time prescribed by Article 1201(C), or failure to request service of petition within the time prescribed by Article 3955.

(3) Lis pendens under Article 531.

(4) Improper venue.

(5) The court's lack of jurisdiction over the person of the defendant.

(6) The court's lack of jurisdiction over the subject matter of the action.

B. When two or more of these objections are pleaded in the declinatory exception, they need not be pleaded in the alternative or in any particular order.

C. All objections which may be raised through the declinatory exception, except the court's lack of jurisdiction over the subject matter of the action, are waived unless pleaded therein.

Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1997, No. 578, §1; Acts 2006, No. 750, §1; Acts 2010, No. 407, §1; Acts 2017, No. 419, §1.

Art. 926. Objections raised by dilatory exception; waiver

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

(1) Prematurity.

(2) Want of amicable demand.

(3) Unauthorized use of summary proceeding.

(4) Nonconformity of the petition with any of the requirements of Article 891.

(5) Vagueness or ambiguity of the petition.

(6) Lack of procedural capacity.

(7) Improper cumulation of actions, including improper joinder of parties.

(8) Discussion.

B. All objections which may be raised through the dilatory exception are waived unless pleaded therein.

Acts 1995, No. 662, §1.

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

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.

Art. 929. Time of trial of exceptions

A. The declinatory exception, the dilatory exception, and the peremptory exception when pleaded before or in the answer shall be tried and decided in advance of the trial of the case.

B. If the peremptory exception has been filed after the answer, but at or prior to the trial of the case, it shall be tried and disposed of either in advance of or on the trial of the case. If the peremptory exception has been pleaded after the trial of the case, the court may rule thereon at any time unless the party against whom it has been pleaded desires and is entitled to introduce evidence thereon. In the latter event, the peremptory exception shall be tried specially.

Acts 1987, No. 169, §1; Acts 1997, No. 1055, §1.

Art. 930. Evidence on trial of declinatory and dilatory exceptions

On the trial of the declinatory exception, evidence may be introduced to support or controvert any of the objections pleaded, when the grounds thereof do not appear from the petition, the citation, or return thereon.

On the trial of the dilatory exception, evidence may be introduced to support or controvert any of the objections pleaded, when the grounds thereof do not appear from the petition.

Art. 931. Evidence on trial of peremptory exception

On the trial of the peremptory exception pleaded at or prior to the trial of the case, evidence may be introduced to support or controvert any of the objections pleaded, when the grounds thereof do not appear from the petition.

When the peremptory exception is pleaded in the trial court after the trial of the case, but prior to a submission for a decision, the plaintiff may introduce evidence in opposition thereto, but the defendant may introduce no evidence except to rebut that offered by plaintiff.

No evidence may be introduced at any time to support or controvert the objection that the petition fails to state a cause of action.

Art. 932. Effect of sustaining declinatory exception

A. When the grounds of the objections pleaded in the declinatory exception may be removed by amendment of the petition or other action of plaintiff, the judgment sustaining the exception shall order the plaintiff to remove them within the delay allowed by the court; if the court finds, on sustaining the objection that service of citation on the defendant was not requested timely, it may either dismiss the action as to that defendant without prejudice or, on the additional finding that service could not have been timely requested, order that service be effected within a specified time.

B. If the grounds of the objection cannot be so removed, or if the plaintiff fails to comply with an order requiring such removal, the action, claim, demand, issue, or theory subject to the

exception shall be dismissed; except that if an action has been brought in a court of improper jurisdiction or venue, the court may transfer the action to a proper court in the interest of justice.
Acts 2003, No. 545, §1; Acts 2006, No. 750, §1.

Art. 933. Effect of sustaining dilatory exception

A. If the dilatory exception pleading want of amicable demand is sustained, the judgment shall impose all court costs upon the plaintiff. If the dilatory exception pleading prematurity is sustained, the premature action, claim, demand, issue or theory shall be dismissed.

B. When the grounds of the other objections pleaded in the dilatory exception may be removed by amendment of the petition or other action by plaintiff, the judgment sustaining the exception shall order plaintiff to remove them within the delay allowed by the court; and the action, claim, demand, issue or theory subject to the exception shall be dismissed only for a noncompliance with this order.
Acts 2003, No. 545, §1.

Art. 934. Effect of sustaining peremptory exception

When the grounds of the objection pleaded by the peremptory exception may be removed by amendment of the petition, the judgment sustaining the exception shall order such amendment within the delay allowed by the court. If the grounds of the objection raised through the exception cannot be so removed, or if the plaintiff fails to comply with the order to amend, the action, claim, demand, issue, or theory shall be dismissed.
Acts 2003, No. 545, §1.

Art. 935 to Art. 960 [Repealed]

CHAPTER 4. WRITTEN MOTIONS

Art. 961. Written motion required; exception

An application to the court for an order, if not presented in some other pleading, shall be by motion which, unless made during trial or hearing or in open court, shall be in writing.

Art. 962. Form of written motion

A written motion shall comply with Articles 853 and 863, and shall state the grounds therefor, and the relief or order sought. It must also comply with Article 854 if the motion is lengthy, and whenever applicable, with Articles 855 through 861.

Art. 963. Ex parte and contradictory motions; rule to show cause

If the order applied for by written motion is one to which mover is clearly entitled without supporting proof, the court may grant the order ex parte and without hearing the adverse party.

If the order applied for by written motion is one to which the mover is not clearly entitled, or which requires supporting proof, the motion shall be served on and tried contradictorily with the adverse party.

The rule to show cause is a contradictory motion.

Art. 964. Motion to strike

The court on motion of a party or on its own motion may at any time and after a hearing order stricken from any pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter.

Acts 1997, No. 1055, §1.

Art. 965. Motion for judgment on pleadings

Any party may move for judgment on the pleadings after the answer is filed, or if an incidental demand has been instituted after the answer thereto has been filed, but within such time as not to delay the trial. For the purposes of this motion, all allegations of fact in mover's pleadings not denied by the adverse party or by effect of law, and all allegations of fact in the adverse party's pleadings shall be considered true.

Art. 966. Motion for summary judgment; procedure

A.(1) A party may move for a summary judgment for all or part of the relief for which he has prayed. A plaintiff's motion may be filed at any time after the answer has been filed. A defendant's motion may be filed at any time.

(2) The summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action, except those disallowed by Article 969. The procedure is favored and shall be construed to accomplish these ends.

(3) After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law.

(4) The only documents that may be filed in support of or in opposition to the motion are pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records, written stipulations, and admissions. The court may permit documents to be filed in any electronically stored format authorized by court rules or approved by the clerk of the court.

B. Unless extended by the court and agreed to by all of the parties, a motion for summary judgment shall be filed, opposed, or replied to in accordance with the following provisions:

(1) A motion for summary judgment and all documents in support of the motion shall be filed and served on all parties in accordance with Article 1313 not less than sixty-five days prior to the trial.

(2) Any opposition to the motion and all documents in support of the opposition shall be filed and served in accordance with Article 1313 not less than fifteen days prior to the hearing on the motion.

(3) Any reply memorandum shall be filed and served in accordance with Article 1313 not less than five days prior to the hearing on the motion. No additional documents may be filed with the reply memorandum.

(4) If the deadline for filing and serving a motion, an opposition, or a reply memorandum falls on a legal holiday, the motion, opposition, or reply is timely if it is filed and served no later than the next day that is not a legal holiday.

C.(1) Unless otherwise agreed to by all of the parties and the court:

(a) A contradictory hearing on the motion for summary judgment shall be set not less than thirty days after the filing and not less than thirty days prior to the trial date.

(b) Notice of the hearing date shall be served on all parties in accordance with Article 1313(C) or 1314 not less than thirty days prior to the hearing.

(2) For good cause shown, the court may order a continuance of the hearing.

(3) The court shall render a judgment on the motion not less than twenty days prior to the trial.

(4) In all cases, the court shall state on the record or in writing the reasons for granting or denying the motion. If an appealable judgment is rendered, a party may request written reasons for judgment as provided in Article 1917.

D.(1) The burden of proof rests with the mover. Nevertheless, if the mover will not bear the burden of proof at trial on the issue that is before the court on the motion for summary judgment, the mover's burden on the motion does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party's claim, action, or defense. The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law.

(2) The court may consider only those documents filed in support of or in opposition to the motion for summary judgment and shall consider any documents to which no objection is made. Any objection to a document shall be raised in a timely filed opposition or reply memorandum. The court shall consider all objections prior to rendering judgment. The court shall specifically state on the record or in writing which documents, if any, it held to be inadmissible or declined to consider.

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

F. A summary judgment may be rendered or affirmed only as to those issues set forth in the motion under consideration by the court at that time.

G. When the court grants a motion for summary judgment in accordance with the provisions of this Article, that a party or non-party is not negligent, is not at fault, or did not cause in whole or in part the injury or harm alleged, that party or non-party shall not be considered in any subsequent allocation of fault. Evidence shall not be admitted at trial to establish the fault of that party or non-party. During the course of the trial, no party or person shall refer directly or indirectly to any such fault, nor shall that party or non-party's fault be submitted to the jury or included on the jury verdict form.

H. On review, an appellate court shall not reverse a trial court's denial of a motion for summary judgment and grant a summary judgment dismissing a case or a party without assigning the case for briefing and permitting the parties an opportunity to request oral argument.

Amended by Acts 1966, No. 36, §1; Acts 1983, No. 101, §1, eff. June 24, 1983; Acts 1984, No. 89, §1; Acts 1992, No. 71, §1; Acts 1996, 1st Ex. Sess., No. 9, §1, eff. May 1, 1996; Acts 1997, No. 483, §§1, 3, eff. July 1, 1997; Acts 2001, No. 771, §1; Acts 2003, No. 867, §1; Acts 2010, No. 690, §1; Acts 2012, No. 257, §1; Acts 2012, No. 741, §1; Acts 2013, No. 391, §1; Acts 2014, No. 187, §1; Acts 2015, No. 422, §1, eff. Jan. 1, 2016.

NOTE: See Acts 2015, No. 422, §2, "The provisions of this Act shall not apply to any motion for summary judgment pending adjudication or appeal on the effective date of this Act."

Art. 967. Same; affidavits

A. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is

competent to testify to the matters stated therein. The supporting and opposing affidavits of experts may set forth such experts' opinions on the facts as would be admissible in evidence under Louisiana Code of Evidence Article 702, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or by further affidavits.

B. When a motion for summary judgment is made and supported as provided above, an adverse party may not rest on the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided above, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be rendered against him.

C. If it appears from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

D. If it appears to the satisfaction of the court at any time that any of the affidavits presented pursuant to this Article are presented in bad faith or solely for the purposes of delay, the court immediately shall order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney fees. Any offending party or attorney may be adjudged guilty of contempt.
Amended by Acts 1966, No. 36, §1; Acts 2[illegible] No. 54[illegible] §1.

Art. 968. Effect of judgment on pleadings and summary judgment

Judgments on the pleadings, and summary judgments, are final judgments and shall be rendered and signed in the same manner and with the same effect as if a trial had been had upon evidence regularly adduced. If the judgment does not grant mover all of the relief prayed for, jurisdiction shall be retained in order to adjudicate on mover's right to the relief not granted on motion.

An appeal does not lie from the court's refusal to render any judgment on the pleading or summary judgment.

Art. 969. Judgment on pleadings and summary judgment not permitted in certain cases; exception

A. Judgments on the pleadings and summary judgments shall not be granted in any action for divorce or annulment of marriage, nor in any case where the community, paraphernal, or dotal rights may be involved in an action between husband and wife.

B.(1) Notwithstanding the provisions of Paragraph A, judgments on the pleadings and summary judgments may be granted without hearing in any action for divorce under Civil Code Article 103(1) under the following conditions:

(a) All parties are represented by counsel;

(b) Counsel for each party, after answer is filed, file a written joint stipulation of facts, request for judgment, and sworn verification by each party; and

(c) Counsel for each party file a proposed judgment containing a certification that counsel and each party agree to the terms thereof.

(2) The court may render and sign such judgments in chambers without a hearing and without the taking of testimony.

Acts 1986, No. 219, §2; Acts 1987, No. 271, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991.

Art. 970. Motion for judgment on offer of judgment

A. At any time more than twenty days before the time specified for the trial of the matter, without any admission of liability, any party may serve upon an adverse party an offer of judgment for the purpose of settling all of the claims between them. The offer of judgment shall be in writing and state that it is made under this Article; specify the total amount of money of the settlement offer; and specify whether that amount is inclusive or exclusive of costs, interest, attorney fees, and any other amount which may be awarded pursuant to statute or rule. Unless accepted, an offer of judgment shall remain confidential between the offeror and offeree. If the adverse party, within ten days after service, serves written notice that the offer is accepted, either party may move for judgment on the offer. The court shall grant such judgment on the motion of either party.

B. An offer of judgment not accepted shall be deemed withdrawn and evidence of an offer of judgment shall not be admissible except in a proceeding to determine costs pursuant to this Article.

C. If the final judgment obtained by the plaintiff-offeree is at least twenty-five percent less than the amount of the offer of judgment made by the defendant-offeror or if the final judgment obtained against the defendant-offeree is at least twenty-five percent greater than the amount of the offer of judgment made by the plaintiff-offeror, the offeree must pay the offeror's costs, exclusive of attorney fees, incurred after the offer was made, as fixed by the court.

D. The fact that an offer is made but not accepted does not preclude a subsequent offer or a counter offer. When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the damages remains to be determined by future proceedings, either party may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than thirty days before the start of hearings to determine the amount or extent of damages.

E. For purposes of comparing the amount of money offered in the offer of judgment to the final judgment obtained, which judgment shall take into account any additur or remittitur, the final judgment obtained shall not include any amounts attributable to costs, interest, or attorney fees, or to any other amount which may be awarded pursuant to statute or rule, unless such amount was expressly included in the offer.

F. A judgment granted on a motion for judgment on an offer of judgment is a final judgment when signed by the judge; however, an appeal cannot be taken by a party who has consented to the judgment.

Acts 1996, 1st Ex. Sess., No. 60, §1, eff. May 9, 1996; Acts 1997, No. 354, §1; Acts 2012, No. 557, §1.

Art. 971. Special motion to strike

A.(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or Louisiana Constitution in

connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established a probability of success on the claim.
(2) In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.
(3) If the court determines that the plaintiff has established a probability of success on the claim, that determination shall be admissible in evidence at any later stage of the proceeding.

B. In any action subject to Paragraph A of this Article, a prevailing party on a special motion to strike shall be awarded reasonable attorney fees and costs.

C.(1) The special motion may be filed within ninety days of service of the petition, or in the court's discretion, at any later time upon terms the court deems proper.
(2) If the plaintiff voluntarily dismisses the action prior to the running of the delays for filing an answer, the defendant shall retain the right to file a special motion to strike within the delays provided by Subparagraph (1) of this Paragraph, and the motion shall be heard pursuant to the provisions of this Article.
(3) The motion shall be noticed for hearing not more than thirty days after service unless the docket conditions of the court require a later hearing.

D. All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this Article. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. Notwithstanding the provisions of this Paragraph, the court, on noticed motion and for good cause shown, may order that specified discovery be conducted.

E. This Article shall not apply to any enforcement action brought on behalf of the state of Louisiana by the attorney general, district attorney, or city attorney acting as a public prosecutor.

F. As used in this Article, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise:
(1) "Act in furtherance of a person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue" includes but is not limited to:

(a) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law.

(b) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official body authorized by law.

(c) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest.

(d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.
(2) "Petition" includes either a petition or a reconventional demand.
(3) "Plaintiff" includes either a plaintiff or petitioner in a principal action or a plaintiff or petitioner in reconvention.
(4) "Defendant" includes either a defendant or respondent in a principal action or a defendant or respondent in reconvention.
Acts 1999, No. 734, §1; Acts 2004, No. 232, §1; Acts 2012, No. 449, §1.

Art. 972 to Art. 1000 [Repealed]

CHAPTER 5. ANSWER

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.

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 default judgment against him.

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

Art. 1003. Form of answer

The answer shall comply with Articles 853, 854, and 863 and, whenever applicable, with Articles 855 through 861. It shall admit or deny the allegations of the petition as required by Article 1004, state in short and concise terms the material facts upon which the defenses to the action asserted are based, and shall set forth all affirmative defenses as required by Article 1005. It shall also contain a prayer for the relief sought. Relief may be prayed for in the alternative.

Art. 1004. Denials

The answer shall admit or deny the allegations of fact contained in each paragraph of the petition, and all such allegations, other than those as to the amount of damages, are admitted if not denied in the answer. If the defendant is without knowledge or information sufficient to justify a belief as to the truth of an allegation of fact made in the petition, he shall so state and this shall have the effect of a denial. Denials shall fairly meet the substance of the allegations denied. When the defendant intends in good faith to deny only a part of or to qualify an allegation of fact, he shall admit so much of it as is true and material and shall deny or qualify the remainder.

Art. 1005. Affirmative defenses

The answer shall set forth affirmatively negligence, or fault of the plaintiff and others, duress, error or mistake, estoppel, extinguishment of the obligation in any manner, failure of consideration, fraud, illegality, injury by fellow servant, and any other matter constituting an affirmative defense. If a party has mistakenly designated an affirmative defense as a peremptory

exception or as an incidental demand, or a peremptory exception as an affirmative defense, and if justice so requires, the court, on such terms as it may prescribe, shall treat the pleading as if there had been a proper designation.
Acts 2008, No. 824, §1, eff. Jan. 1, 2009.

Art. 1006. Alternative defenses

An answer may set forth two or more defenses in the alternative, even though the factual or legal bases thereof may be inconsistent or mutually exclusive. All allegations in such cases are made subject to the obligations set forth in Article 863.

Art. 1007 to Art. 1030 [Repealed]

CHAPTER 6. INCIDENTAL ACTIONS

SECTION 1. GENERAL DISPOSITIONS

Art. 1031. Incidental demands allowed

A. A demand incidental to the principal demand may be instituted against an adverse party, a co-party, or against a third person.

B. Incidental demands are reconventional, cross-claims, intervention, and the demand against third parties.
Acts 1983, No. 63, §1.

Art. 1032. Form of petition

An incidental demand shall be commenced by a petition which shall comply with the requirements of Articles 891, 892 and 893. An incidental demand instituted by the defendant in the principal action may be incorporated in his answer to the principal demand. In this event, the caption shall indicate appropriately the dual character of the combined pleading.
Amended by Acts 1988, No. 443, §2, eff. Jan. 1, 1989.
{{NOTE: SEE ACTS 1988, NO. 443, §3.}}

Art. 1033. Delay for filing incidental demand

An incidental demand may be filed without leave of court at any time up to and including the time the answer to the principal demand is filed.

An incidental demand may be filed thereafter, with leave of court, if it will not retard the progress of the principal action, or if permitted by Articles 1066 or 1092.

An incidental demand that requires leave of court to file shall be considered as filed as of the date it is presented to the clerk of court for filing if leave of court is thereafter granted.
Amended by Acts 1970, No. 473, §1.

Art. 1034. Exceptions and motions

A defendant in an incidental action may plead any of the exceptions available to a defendant in a principal action, and may raise any of the objections enumerated in Articles 925 through 927, except that an objection of improper venue may not be urged if the principal action has been instituted in the proper venue. Exceptions pleaded by the defendant in an incidental action shall be subject to all of the provisions of Articles 924 through 934.

A party to an incidental action may plead any of the written motions available to a party to a principal action, subject to the provisions of Articles 961 through 969.

Art. 1035. Answer

The answer in an incidental action shall be filed within the delay allowed by Article 1001, and shall be subject to all of the rules set forth in Articles 1001 and 1003 through 1006.
Acts 2014, No. 655, §1.

Art. 1036. Jurisdiction; mode of procedure

A. Except as otherwise provided in Article 4845, a court shall have jurisdiction over an incidental demand only if it would have had jurisdiction over the demand had it been instituted in a separate suit. The only exceptions to this rule are those provided in the state constitution.

B. The mode of procedure employed in the incidental action shall be the same as that used in the principal action, except as otherwise provided by law.
Acts 1995, No. 202, §1.

Art. 1037. Action instituted separately

When a person does not assert in an incidental demand the action which he has against a party to the principal action or a third person, he does not thereby lose his right of action, except as provided in Article 1595, and except as provided in Article 1061.
Acts 1990, No. 521, §2, eff. January 1, 1991.

Art. 1038. Separate trial; separate judgment

The court may order the separate trial of the principal and incidental actions, either on exceptions or on the merits; and after adjudicating the action first tried, shall retain jurisdiction for the adjudication of the other.

When the principal and incidental actions are tried separately, the court may render and sign separate judgments thereon. When in the interests of justice, the court may withhold the signing of the judgment on the action first tried until the signing of the judgment on the other.

Art. 1039. Effect of dismissal of principal action

If an incidental demand has been pleaded prior to motion by plaintiff in the principal action to dismiss the principal action, a subsequent dismissal thereof shall not in any way affect the incidental action, which must be tried and decided independently of the principal action.

Art. 1040. Words "plaintiff" and "defendant" include plaintiff and defendant in an incidental action

Unless the context clearly indicates otherwise, wherever the words "plaintiff" and "defendant" are used in this Code, they respectively include a plaintiff and a defendant in an incidental demand.

Art. 1041 to Art. 1060 [Repealed]

SECTION 2. RECONVENTION

Art. 1061. Actions pleaded in reconventional demand; compulsory

A. The defendant in the principal action may assert in a reconventional demand any causes of action which he may have against the plaintiff in the principal action, even if these two parties are domiciled in the same parish and regardless of connexity between the principal and reconventional demands.

B. The defendant in the principal action, except in an action for divorce under Civil Code Article 102 or 103 or in an action under Civil Code Article 86, shall assert in a reconventional demand all causes of action that he may have against the plaintiff that arise out of the transaction or occurrence that is the subject matter of the principal action.

Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1991, No. 367, §2; Acts 2006, No. 344, §2, eff. June 13, 2006.

Art. 1062. Pleading compensation

Compensation may be asserted in the reconventional demand.

Art. 1063. Service of reconventional demand; citation unnecessary

The petition in reconvention, whether incorporated in the answer to the principal action or filed separately, shall be served on the plaintiff in the principal action in the manner prescribed by Article 1314. Citation of the plaintiff in the principal action shall not be necessary.

Amended by Acts 1972, No. 662, §1.

Art. 1064. Additional parties

Persons other than those made parties to the original action may be made parties to the reconventional demand.

Acts 1995, No. 858, §1.

Art. 1065. Reconventional demand exceeding principal demand

The reconventional demand may or may not diminish or defeat the recovery sought in the principal demand. It may claim relief exceeding in amount that sought in the principal demand.

Art. 1066. Action matured or acquired after pleading

An action which either matured or was acquired by the defendant in the principal action after answer may be presented, with the permission of the court, as a reconventional demand by supplemental pleading.

Art. 1067. When prescribed incidental or third party demand is not barred

An incidental demand is not barred by prescription or peremption if it was not barred at the time the main demand was filed and is filed within ninety days of date of service of main demand or in the case of a third party defendant within ninety days from service of process of the third party demand.

Added by Acts 1970, No. 472, §1. Amended by Acts 1974, No. 86, §1.

Art. 1068 to Art. 1070 [Repealed]

SECTION 3. CROSS-CLAIMS

Art. 1071. Cross-claims

A party by petition may assert as a cross-claim any demand against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or a reconventional demand or relating to any property that is the subject matter of the original action. The cross-claim may include a demand that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of the demand asserted in the action against the cross-claimant.

Added by Acts 1983, No. 63, §1.

Art. 1072. Service of cross-claim, citation unnecessary

The petition in a cross-claim shall be served on the co-party in the manner prescribed by Article 1314. Citation of the co-party shall not be necessary.

Added by Acts 1983, No. 63, §1.

Art. 1073. Additional parties

Persons other than those made parties to the original action may be made parties to a cross-claim.

Added by Acts 1983, No. 63, §1.

Art. 1074 to Art. 1090 [Repealed]

SECTION 4. INTERVENTION

Art. 1091. Third person may intervene

A third person having an interest therein may intervene in a pending action to enforce a right related to or connected with the object of the pending action against one or more of the parties thereto by:

(1) Joining with plaintiff in demanding the same or similar relief against the defendant;
(2) Uniting with defendant in resisting the plaintiff's demand; or
(3) Opposing both plaintiff and defendant.

Art. 1092. Third person asserting ownership of, or mortgage or privilege on, seized property

A third person claiming ownership of, or a mortgage or privilege on, property seized may assert his claim by intervention. If the third person asserts ownership of the seized property, the intervention may be filed at any time prior to the judicial sale of the seized property, and the court may grant him injunctive relief to prevent such sale before an adjudication of his claim of ownership.

If the third person claims a mortgage or privilege on the entire property seized, whether superior or inferior to that of the seizing creditor, the intervention may be filed at any time prior to the distribution by the sheriff of the proceeds of the sale of the seized property, and the court shall order the sheriff to hold such proceeds subject to its further orders. When the intervener claims such a mortgage or privilege only on part of the property seized, and the intervention is filed prior to the judicial sale, the court may order the separate sale of the property on which the intervener claims a mortgage or privilege; or if a separate sale thereof is not feasible or necessary, or the intervener has no right thereto, the court may order the separate appraisement of the entire property seized and of the part thereof on which the intervener claims a mortgage or privilege.

An intervener claiming the proceeds of a judicial sale does not thereby admit judicially the validity, nor is he estopped from asserting the invalidity, of the claim of the seizing creditor.
Amended by Acts 1962, No. 92, §1.

Art. 1093. Service of petition; citation unnecessary

When the intervention asserts ownership of, or a mortgage or privilege on, the seized property, the petition shall be served on the sheriff and all parties to the principal action as provided in Article 1313. Any other petition of intervention shall be served on all parties to the principal action as provided in Article 1314. Citation is not necessary in intervention.

Art. 1094. Intervener accepts proceedings

An intervener cannot object to the form of the action, to the venue, or to any defects and informalities personal to the original parties.

Art. 1095 to Art. 1110 [Repealed]

SECTION 5. DEMAND AGAINST THIRD PARTY

Art. 1111. Defendant may bring in third person

The defendant in a principal action by petition may bring in any person, including a codefendant, who is his warrantor, or who is or may be liable to him for all or part of the principal demand.

In such cases the plaintiff in the principal action may assert any demand against the third party defendant arising out of or connected with the principal demand. The third party defendant thereupon shall plead his objections and defenses in the manner prescribed in Articles 921 through 969, 1003 through 1006, and 1035. He may reconvene against the plaintiff in the principal action or the third party plaintiff, on any demand arising out of or connected with the principal demand, in the manner prescribed in Articles 1061 through 1066.

Art. 1112. Defendant in reconvention may bring in third persons

The defendant in reconvention likewise may bring in his warrantor, or any person who is or may be liable to him for all or part of the reconventional demand, and the rules provided in Articles 1111, and 1113 through 1115 shall apply equally to such third party actions.

Art. 1113. Effect of failure to bring in third party

A defendant who does not bring in as a third party defendant a person who is liable to him for all or part of the principal demand does not on that account lose his right or cause of action against such person, unless the latter proves that he had means of defeating the action which were not used, because the defendant either failed to bring him in as a third party defendant, or neglected to apprise him that the suit had been brought. The same rule obtains with respect to a defendant in reconvention who fails to bring in as a third party defendant a person who is liable to him for all or part of the reconventional demand.

Art. 1114. Service of citation and pleadings

A citation and a certified copy of the third party petition shall be served on the third party defendant in the manner prescribed by Articles 1231 through 1293. Unless previously served on or filed by the third party defendant, certified copies of the following pleadings shall also be served on him in the same manner: the petition in the principal demand; the petition in the reconventional demand, if any; and the answers to the principal and reconventional demands filed prior to the issuance of citation in the third party action.

Amended by Acts 1964, No. 4, §1.

Art. 1115. Defenses of original defendant available to third party defendant

The third party defendant may assert against the plaintiff in the principal action any defenses which the third party plaintiff has against the principal demand.

Art. 1116. Third party defendant may bring in third person

A third party defendant may proceed under Articles 1111 through 1115 against any person who is or may be liable to him for all or any part of the third party demand.

Art. 1117 to Art. 1150 [Repealed]

CHAPTER 7. AMENDED AND SUPPLEMENTAL PLEADINGS

Art. 1151. Amendment of petition and answer; answer to amended petition

A plaintiff may amend his petition without leave of court at any time before the answer thereto is served. He may be ordered to amend his petition under Articles 932 through 934. A defendant may amend his answer once without leave of court at any time within ten days after it has been served. Otherwise, the petition and answer may be amended only by leave of court or by written consent of the adverse party.

A defendant shall plead in response to an amended petition within the time remaining for pleading to the original pleading or within ten days after service of the amended petition, whichever period is longer, unless the time is extended under Article 1001.

Art. 1152. Amendment of exceptions

A defendant may amend his declinatory or dilatory exceptions by leave of court or with the written consent of the adverse party at any time prior to the trial of the exceptions, so as to amplify or plead more particularly an objection set forth or attempted to be set forth in the original exception. A declinatory or a dilatory exception may not be amended so as to plead an objection not attempted to be set forth in the original exception.

A defendant may amend his peremptory exception at any time and without leave of court, so as to either amplify an objection set forth or attempted to be set forth in the original exception, or to plead an objection not set forth therein.

Art. 1153. Amendment relates back

When the action or defense asserted in the amended petition or answer arises out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of filing the original pleading.

Art. 1154. Amendment to conform to evidence

When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised by the pleading. Such

amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to so amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby, and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense on the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

Art. 1155. Supplemental pleadings

The court, on motion of a party, upon reasonable notice and upon such terms as are just, may permit mover to file a supplemental petition or answer setting forth items of damage, causes of action or defenses which have become exigible since the date of filing the original petition or answer, and which are related to or connected with the causes of action or defenses asserted therein.

Art. 1156. Amended and supplemental pleadings in incidental action

The petition, the answer, and the exceptions filed in an incidental action may be amended or supplemented in the manner provided in Articles 1154 through 1155.

Art. 1157 to Art. 1200 [Repealed]

TITLE II. CITATION AND SERVICE OF PROCESS

CHAPTER 1. CITATION

Art. 1201. Citation; waiver; delay for service

A. Citation and service thereof are essential in all civil actions except summary and executory proceedings, divorce actions under Civil Code Article 102, and proceedings under the Children's Code. Without them all proceedings are absolutely null.

B. The defendant may expressly waive citation and service thereof by any written waiver made part of the record.

C. Service of the citation shall be requested on all named defendants within ninety days of commencement of the action. When a supplemental or amended petition is filed naming any additional defendant, service of citation shall be requested within ninety days of its filing, and the additional defendant shall be served with the original petition and the supplemental or amended petition. The defendant may expressly waive the requirements of this Paragraph by any written waiver. The requirement provided by this Paragraph shall be expressly waived by a defendant unless the defendant files, in accordance with the provisions of Article 928, a declinatory exception of insufficiency of service of process specifically alleging the failure to timely request service of citation.

D. If not waived, a request for service of citation upon the defendant shall be considered timely if requested on the defendant within the time period provided by this Article, notwithstanding insufficient or erroneous service.

Acts 1991, No. 367, §2; Acts 1997, No. 518, §2, eff. Jan. 1, 1998; Acts 2003, No. 545, §1; Acts 2006, No. 750, §1; Acts 2014, No. 379, §2, eff. May 30, 2014; Acts 2022, No. 455, §1.

Art. 1202. Form of citation

The citation must be signed by the clerk of the court issuing it with an expression of his official capacity and under the seal of his office; must be accompanied by a certified copy of the petition, exclusive of exhibits, even if made a part thereof; and must contain the following:

(1) The date of issuance;

(2) The title of the cause;

(3) The name of the person to whom it is addressed;

(4) The title and location of the court issuing it; and

(5) A statement that the person cited must either comply with the demand contained in the petition or make an appearance, either by filing a pleading or otherwise, in the court issuing the citation within the delay provided in Article 1001 under penalty of default.

Art. 1203. Citation to legal representative of multiple defendants

When one person is the legal representative of several persons made defendant in the same cause, only one citation need be addressed to such representative.

Art. 1204 to Art. 1230 [Repealed]

CHAPTER 2. SERVICE ON PERSONS

Art. 1231. Types of service; time of making

Service of citation or other process may be either personal or domiciliary, and except as otherwise provided by law, each has the same effect.

Service, whether personal or domiciliary, may be made at any time of day or night, including Sundays and holidays.

Art. 1232. Personal service

Personal service is made when a proper officer tenders the citation or other process to the person to be served.

Art. 1233. Same; where made

Personal service may be made anywhere the officer making the service may lawfully go to reach the person to be served.

Art. 1234. Domiciliary service

Domiciliary service is made when a proper officer leaves the citation or other process at the dwelling house or usual place of abode of the person to be served with a person of suitable age and discretion residing in the domiciliary establishment.

Acts 1985, No. 355, §1.

Art. 1235. Service on representative

A. Service is made on a person who is represented by another by appointment of court, operation of law, or mandate, through personal or domiciliary service on such representative.

B. Service on an attorney, as a representative of a client, is proper when the attorney's secretary is served in the attorney's office.

C. For the purposes of this Article "secretary" shall be defined as the person assigned to a particular attorney and who is charged with the performance of that part of the attorney's business concerned with the keeping of records, the sending and receiving of correspondence, and the preparation and monitoring of the attorney's appointments calendar.

Acts 1991, No. 45, §1.

Art. 1235.1. Service on incarcerated person

A. Service is made on a person who is incarcerated in a jail or detention facility through personal service on the warden or his designee for that shift. The warden or his designee shall in turn make personal service on the person incarcerated.

B. When requested by the petitioner or mover, proof of service may be made by filing in the record the affidavit of the person serving the citation and pleadings on the person who is incarcerated.

C. Personal service on the person incarcerated as required by Paragraph A of this Article shall be made promptly, but in no event shall it be made later than ten days after service upon the warden or his designee. If, for reasons beyond the control of the warden, such personal service cannot be accomplished by the tenth day, then on the next day or as soon as it is apparent that such personal service cannot be accomplished, the warden or his designee shall note the inability to serve on the citation or pleadings and return the citation or pleadings to the issuing court.

D. Service as provided in Paragraph A of this Article shall be deemed to be accomplished on the date of personal service shown by the affidavit specified in Paragraph B of this Article, or if no such affidavit is timely received, on a return by the warden or his designee in Paragraph C of this Article indicating a lack of personal service, then service is deemed to be accomplished ten days after service upon the warden or his designee under Paragraph A of this Article.

Acts 1991, No. 46, §1; Acts 2004, No. 744, §1.

Art. 1236. Service on clerical employees of physicians

Service on any physician, when not a party to an action, may be made at his or her office through personal service on any clerical employee of such physician.

Added by Acts 1975, No. 778, §1. Amended by Acts 1997, No. 1056, §1.

Art. 1237. Service on individual in multiple capacities

In cases wherein an individual is named in pleadings in more than one capacity, personal service on that individual is sufficient to constitute service of process on that individual in all capacities, including but not limited to as an individual, tutor, or a representative of a legal or quasi legal entity, when it is clear from the pleadings or service instructions the capacities in which the individual is being served.

Acts 1995, No. 851, §1; Acts 1995, No. 1257, §1.

Art. 1238 to Art. 1260 [Repealed]

CHAPTER 3. SERVICE ON LEGAL AND QUASI LEGAL ENTITIES

Art. 1261. Domestic or foreign corporation

A. Service of citation or other process on a domestic or foreign corporation is made by personal service on any one of its agents for service of process.

B. If the corporation has failed to designate an agent for service of process, if there is no registered agent by reason of death, resignation, or removal, or if the person attempting to make service certifies that he is unable, after due diligence, to serve the designated agent, service of the citation or other process may be made by any of the following methods:

(1) By personal service on any officer, or director, or on any person named as such in the last report filed with the secretary of state.

(2) By personal service on any employee of suitable age and discretion at any place where the business of the corporation is regularly conducted.

(3) By service of process under the provisions of R.S. 13:3204, if the corporation is subject to the provisions of R.S. 13:3201.

C. Service of citation or other process on a bank is made pursuant to R.S. 6:285(C).

Amended by Acts 1988, No. 37, §1, eff. June 10, 1988; Acts 1991, No. 656, §2; Acts 1995, No. 859, §1; Acts 1995, No. 1257, §1.

Art. 1262. Same; secretary of state

If the officer making service certifies that he is unable, after diligent effort, to have service made as provided in Article 1261, then the service may be made personally on the secretary of state, or on a person in his office designated to receive service of process on corporations. The secretary of state shall forward this citation to the corporation at its last known address.

Art. 1263. Partnership

Service of citation or other process on a partnership is made by personal service on a partner. Service of citation or other process on a partnership in commendam is made by personal service on a general partner. When the officer certifies that he is unable, after diligent effort, to make service in this manner, he may make personal service on any employee of suitable age and discretion at any place where the business of the partnership or partnership in commendam is regularly conducted.

Acts 2001, No. 512, §1.

Art. 1264. Unincorporated association

Service on an unincorporated association is made by personal service on the agent appointed, if any, or in his absence, upon a managing official, at any place where the business of the association is regularly conducted. In the absence of all officials from the place where the business of the association is regularly conducted, service of citation or other process may be made by personal service upon any member of the association.

Art. 1265. Political entity; public officer

Service of citation or other process on any political subdivision, public corporation, or state, parochial or municipal board or commission is made at its office by personal service upon the chief executive officer thereof, or in his absence upon any employee thereof of suitable age and discretion. A public officer, sued as such, may be served at his office either personally, or in his absence, by service upon any of his employees of suitable age and discretion.

If the political entity or public officer has no established office, then service may be made at any place where the chief executive officer of the political entity or the public officer to be served may be found.

Art. 1266. Limited liability company

A. Service of citation or other process on a domestic or foreign limited liability company is made by personal service on any one of its agents for service of process.

B. If the limited liability company has failed to designate an agent for service of process, if there is no registered agent by reason of death, resignation, or removal, or if the person attempting to make service certifies that he is unable, after due diligence, to serve the designated agent, service of the citation or other process may be made by any of the following methods:

(1) Personal service on any manager if the management of the limited liability company is vested in one or more managers or if management is not so vested in managers, then on any member.

(2) Personal service on any employee of suitable age and discretion at any place where the business of the limited liability company is regularly conducted.

(3) Service of process under the provisions of R.S. 13:3204, if the limited liability company is subject to the provisions of R.S. 13:3201.

(4) Repealed by Acts 2001, No. 407, §2.

Acts 1999, No. 145, §1; Acts 2001, No. 407, §2.

Art. 1267. Same; service on secretary of state

If the officer making service certifies that he is unable, after diligent effort, to have service made as provided in Article 1266, then the service may be made personally on the secretary of state, or on a person in his office designated to receive service of process on limited liability companies. The secretary of state shall forward this citation to the limited liability company at its last known address.

Acts 2001, No. 407, §1.

Art. 1268 to Art. 1290 [Repealed]

CHAPTER 4. PERSONS AUTHORIZED TO MAKE SERVICE

Art. 1291. Service by sheriff

Except as otherwise provided by law, service shall be made by the sheriff of the parish where service is to be made or of the parish where the action is pending.

Art. 1292. Sheriff's return

A. The sheriff shall endorse on a copy of the citation or other process the date, place, and method of service and sufficient other data to show service in compliance with law. He shall sign and return the copy promptly after the service to the clerk of court who issued it. The return, when received by the clerk, shall form part of the record, and shall be considered prima facie correct. The court, at any time and upon such terms as are just, may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

B. In addition to the provisions of Paragraph A of this Article, when the citation or other process is a temporary restraining order, protective order, preliminary injunction, permanent injunction, or court-approved consent agreement as referenced in R.S. 46:2136.2(B), the person making the service, or his designee, shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made. Acts 2018, No. 679, §1.

Art. 1293. Service by private person

A. When the sheriff has not made service within ten days after receipt of the process or when a return has been made certifying that the sheriff has been unable to make service, whichever is earlier, on motion of a party the court shall appoint a person over the age of majority, not a party and residing within the state whom the court deems qualified to perform the duties required, to make service of process in the same manner as is required of sheriffs. Service of process made in this manner shall be proved like any other fact in the case. Any person who is a Louisiana licensed private investigator shall be presumed qualified to perform the duties required to make service.

B. In serving notice of a summary proceeding as provided by Article 2592 or a subpoena which is related to the proceeding, on motion of a party the court shall have the discretion to appoint any person over the age of majority, not a party and residing within the state, to make service of process, notices, and subpoenas in the same manner as is required of sheriffs, without first requiring the sheriff to attempt service. The party making such a motion shall include the reasons, verified by affidavit, necessary to forego service by the sheriff, which shall include but not be limited to the urgent emergency nature of the hearing, knowledge of the present whereabouts of the person to be served, as well as any other good cause shown.

C. In addition to those natural persons who the court may appoint to make service of process pursuant to Paragraph A or B of this Article, the court may also appoint a juridical person which may then select an employee or agent of that juridical person to make service of process, provided the employee or agent perfecting service of process is a natural person who qualifies as an agent for service of process pursuant to Paragraph A or B of this Article.

D. In addition to the provisions of Paragraph A of this Article, when the citation or other process is a temporary restraining order, protective order, preliminary injunction, permanent injunction, or court-approved consent agreement as referenced in R.S. 46:2136.2(B), the person making the service, or his designee, shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

Acts 1984, No. 210, §1; Acts 2006, No. 704, §1, eff. June 29, 2006; Acts 2010, No. 185, §1; Acts 2010, No. 466, §1, eff. June 22, 2010; Acts 2012, No. 52[illegible], §1; Acts 2018, No. 679, §1.

Art. 1294 to Art. 1310 [Repealed]

CHAPTER 5. SERVICE OF PLEADINGS

Art. 1311. Service of copy of exhibit to pleading unnecessary

A copy of any written instrument which is an exhibit to a pleading need not be served upon the adverse party unless the party who files the pleading expressly prays for such service.

Art. 1312. Service of pleadings subsequent to petition; exceptions

Except as otherwise provided in the second paragraph hereof, every pleading subsequent to the original petition shall be served on the adverse party as provided by Article 1313 or 1314, whichever is applicable.

No service on the adverse party need be made of a motion or petition for an appeal, of a petition for the examination of a judgment debtor, of a petition for the issuance of garnishment interrogatories in the execution of a final judgment, or of any pleading not required by law to be in writing.

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.

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. [illegible] §1, eff. Jan. 1, 2022.

Art. 1314. Same; service by sheriff

A. A pleading which is required to be served, but which may not be served under Article 1313, shall be served by the sheriff by either of the following:

(1) Service on the adverse party in any manner permitted under Articles 1231 through 1266.

(2)(a) Personal service on the counsel of record of the adverse party or delivery of a copy of the pleading to the clerk of court, if there is no counsel of record and the address of the adverse party is not known.

(b) Except as otherwise provided in Article 2293, service may not be made on the counsel of record after a final judgment terminating or disposing of all issues litigated has been rendered, the delays for appeal have lapsed, and no timely appeal has been taken.

B. Personal service on a partner or office associate of a counsel of record, including a secretary, receptionist, legal staff, administrative staff, or paralegal in the employ of the counsel of record, at the office address of record of the counsel of record shall constitute valid service under Paragraph A of this Article.

Amended by Acts 1968, No. 125, §1; Acts 1997, No. 268, §1; Acts 1997, No. 1056, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2001, No. 512, §1; Acts 2012, No. 242, §1.

Art. 1315 to Art. 1350 [Repealed]

TITLE III. PRODUCTION OF EVIDENCE

CHAPTER 1. SUBPOENAS

Art. 1351. Issuance; form

The clerk or judge of the court wherein the action is pending, at the request of a party, shall issue subpoenas for the attendance of witnesses at hearings or trials. A subpoena shall issue under the seal of the court. It shall state the name of the court, the title of the action, and shall command the attendance of the witness at a time and place specified, until discharged.

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. 1353. Prepayment of fees

No subpoena shall issue until the party who wishes to subpoena the witness first deposits with the clerk of court a sum of money sufficient to pay all fees and expenses to which the witness is entitled by law.

Art. 1354. Subpoena duces tecum

A. A subpoena may order a person to appear and produce at the trial, deposition, or hearing, books, papers, documents, any other tangible things, or electronically stored information, in his possession or under his control if a reasonably accurate description thereof is given. A subpoena may specify the form or forms in which electronically stored information is to be produced. A party or an attorney requesting the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or cost on a person subject to that subpoena. The court in which the action is pending in its discretion may vacate or modify the subpoena if it is unreasonable or oppressive. Except when otherwise required by order of the court, certified copies, extracts, or copies of books, papers, and documents may be produced in obedience to the subpoena duces tecum instead of the originals thereof. If the party or attorney requesting the subpoena does not specify that the named person shall be ordered to appear, the person may designate another person having knowledge of the contents of the books, papers, documents, other things, or electronically stored information, to appear as his representative.

B. A person commanded to respond to a subpoena duces tecum may within fifteen days after service of the subpoena or before the time specified for compliance, if such time is less than fifteen days after service, send to the party or attorney designated in the subpoena written objections, with supporting reasons, to any or all of the requests, including objection to the production of electronically stored information in the form or forms requested. If objection is so made, the party serving the subpoena may file a motion to compel compliance with the subpoena and may move for sanctions for failure to reasonably comply.

C. A person responding to a subpoena to produce books, papers, or documents shall produce them as they are kept in the usual course of business or may organize and label them to correspond with the categories in the demand.

D. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably useable.

E. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

F. A person responding to a subpoena need not produce books, papers, documents, or electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel production or to quash, the person from whom production is sought shall show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order production from such sources if the requesting party shows good cause. The court may specify conditions, including an allocation of the costs, for the production.

G. When the person subpoenaed is an adverse party, the party requesting the subpoena duces tecum may accompany his request with a written interrogatory under oath as to what facts he believes the books, papers, documents, electronically stored information or tangible things will prove, and a copy of such statement shall be attached to the subpoena. If the party subpoenaed fails to comply with the subpoena, the facts set forth in the written statement shall be taken as confessed, and in addition the party subpoenaed shall be subject to the penalties set forth in Article 1357.

H. Subpoenas duces tecum shall reproduce in full the provisions of this Article.

Amended by Acts 1978, No. 593, §1; Acts 2008, No. 824, §2, eff. Jan. 1, 2009.

Art. 1355. Service of subpoena

A. Except as provided in Paragraph B of this Article, a subpoena shall be served and a return thereon made in the same manner and with the same effect as a service of and return on a citation. When a party is summoned as a witness, service of the subpoena may be made by personal service on the witness' attorney of record.

B. Except as otherwise provided by law, when the sheriff has not made service of a subpoena within five days after its receipt or when a return has been made certifying that the sheriff has been unable to make service, any person over the age of majority, not a party and residing within the state, may make service of the subpoena in the same manner as is required by the sheriff. Proof of service by a private person shall be made by filing with the clerk of the court by which the subpoena is issued a notarized return showing the title of the action and the name of the court issuing it, the date and manner of service, and the name of the person served, signed by the person who made the service.

Acts 2008, No. 824, §3, eff. Jan. 1, 2009.

Art. 1355.1. Reissuance of subpoena; service by certified or registered mail

When a subpoena that has been personally served is ordered reissued due to continuance or passage of the trial or hearing, the party requesting such reissuance may have the subpoena served in accordance with Article 1355 or may serve the subpoena by mailing a copy of the original subpoena, together with a notice of the new date and time for attendance, to the witness at his

dwelling house or usual place of abode, or to a representative of the witness if personal service of the original subpoena was made on such representative. The mailing shall be by registered or certified mail, return receipt requested. The date of mailing shall be not less than thirty-five days prior to the date on which the witness is subpoenaed to appear. A copy of the documents mailed to the witness and the signed return receipt shall be filed by the party in the record as proof of service. If the registered or certified mail is unclaimed, service of the subpoena shall be as otherwise provided by law.
Acts 1988, No. 283, §1.

Art. 1356. Subpoenas and subpoenas duces tecum for depositions or inspections

A. Proof of service of a notice to take a deposition or of a notice of inspection under Article 1463 constitutes sufficient authorization for issuance by the clerk or judge of the district court wherein the action is pending of subpoenas and subpoenas duces tecum.

B. Subpoenas and subpoenas duces tecum compelling the appearance of a witness who is not a party shall be served within a reasonable period of time before the time specified for the deposition.

C. All provisions applicable to subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued under the provisions of this Article, except as otherwise provided by law.
Amended by Acts 1968, No. 116, §1; Acts 1995, No. 409, §1; Acts 1995, No. 1068, §1, eff. June 29, 1995.

Art. 1357. Failure to comply with subpoena

A person who, without reasonable excuse, fails to obey a subpoena may be adjudged in contempt of the court which issued the subpoena. The court may also order a recalcitrant witness to be attached and brought to court forthwith or on a designated day.

Art. 1358 to Art. 1390 [Repealed]

CHAPTER 2. PROOF OF OFFICIAL RECORDS

Art. 1391. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1392. Proof of statutes

The court shall take judicial notice of the laws of the United States, of every state, territory, and other jurisdiction of the United States as provided by Code of Evidence Article 202.
Acts 2018, No. 184, §1.

Art. 1393. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1394. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1395. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1396. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1397. Repealed by Acts 1988, No. 515, §7, eff. Jan. 1, 1989.

Art. 1398 to Art. 1419 [Repealed]

CHAPTER 3. DISCOVERY

SECTION 1. GENERAL PROVISIONS GOVERNING DISCOVERY

Art. 1420. Signing of discovery requests, responses, or objection

A. Every request for discovery, or response or objection thereto, made by a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection and state his address.

B. The signature of an attorney or party constitutes a certification by him that he has read the request, response, or objection and that to the best of his knowledge, information, and belief formed after reasonable inquiry the request, response, or objection is:

(1) Consistent with all the rules of discovery and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(2) Not interposed for any improper purpose, such as to harass or to cause unnecessary or needless increase in the cost of litigation; and

(3) Not unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

C. If a request, response, or objection is not signed, it shall be stricken unless promptly signed after the omission is called to the attention of the person whose signature is required. A party shall not be obligated to take any action with respect to the request, response, or objection until it is signed.

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 or parties the amount of the reasonable expenses incurred because of the filing of the request, response, or objection, including a reasonable attorney's fee.

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.

Added by Acts 1988, No. 442, §1, eff. Jan. 1, 1989.
{{NOTE: SEE ACTS 1988, NO. 442, §2.}}

Art. 1421. Discovery methods

Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations, including additional medical opinions under Article 1464; request for release of medical records; and requests for admission. Unless the court orders otherwise under Article 1426, the frequency of use of these methods is not limited.
Acts 1976, No. 574, §1; Acts 1993, No. 823, §1; Acts 2017, No. 381, §1, eff. June 23, 2017.

Art. 1422. Scope of discovery; in general

Unless otherwise limited by order of the court in accordance with this Chapter, the scope of discovery is as set forth in this Article and in Articles 1423 through 1425.

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.
Acts 1976, No. 574, §1.

Art. 1422.1. Scope of discovery; records of the Louisiana Bureau of Criminal Identification and Information

In civil proceedings, the records of the Louisiana Bureau of Criminal Identification and Information as defined in R.S. 15:577 shall be privileged and shall not be subject to discovery by third parties. The term "records" as used in this Article shall include but not be limited to"rap sheets", fingerprint records, and any other record created by or maintained by the bureau.
Acts 2003, No. 1199, §1.

Art. 1423. Scope of discovery; insurance agreements

A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.
Acts 1976, No. 574, §1.

Art. 1424. Scope of discovery; trial preparation; materials

A. The court shall not order the production or inspection of any writing, or electronically stored information, obtained or prepared by the adverse party, his attorney, surety, indemnitor, or agent in anticipation of litigation or in preparation for trial unless satisfied that denial of production

or inspection will unfairly prejudice the party seeking the production or inspection in preparing his claim or defense or will cause him undue hardship or injustice. Except as otherwise provided in Article 1425(E)(1), the court shall not order the production or inspection of any part of the writing, or electronically stored information, that reflects the mental impressions, conclusions, opinions, or theories of an attorney.

B. A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of Article 1469(4) apply to the award of expenses incurred in relation to the motion. For purposes of this Paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electronically stored, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

C. When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

D. A disclosure of a communication or information covered by the attorney-client privilege or work product protection does not operate as a waiver if the disclosure is inadvertent and is made in connection with litigation or administrative proceedings, and if the person entitled to assert the privilege or work product protection took reasonably prompt measures, once the holder knew of the disclosure, to notify the receiving party of the inadvertence of the disclosure and the privilege asserted. Once notice is received, the receiving party shall either return or promptly safeguard the inadvertently disclosed material, but with the option of asserting a waiver. Even without notice of the inadvertent disclosure from the sending party, if it is clear that the material received is privileged and inadvertently produced, the receiving party shall either return or promptly safeguard the material, and shall notify the sending party of the material received, but with the option of asserting a waiver.

Acts 1976, No. 574, §1; Acts 2003, No. 545, §1; Acts 2007, No. 140, §1.

Art. 1425. Experts; pretrial disclosures; scope of discovery

A. A party may through interrogatories or by deposition require any other party to identify each person who may be used at trial to present evidence under Articles 702 through 705 of the Louisiana Code of Evidence.

B. Upon contradictory motion of any party or on the court's own motion, an order may be entered requiring that each party that has retained or specially employed a person to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony provide a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor and the data or other information considered by the witness in forming the opinions. The parties, upon agreement, or if ordered by the court, shall include in the report any or all of the following: exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation

to be paid for the study and testimony; a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

C. If the court orders the disclosures of Paragraph B of this Article, they shall be made at the times and in the sequence directed by the court. In the absence of directions from the court or stipulation by the parties, the disclosures ordered pursuant to Paragraph B of this Article shall be made at least ninety days before the trial date or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Paragraph B of this Article, within thirty days after the disclosure made by the other party. The parties shall supplement these disclosures when required by Article 1428.

D.(1) Except as otherwise provided in Paragraph E of this Article, a party may, through interrogatories, deposition, and a request for documents and tangible things, discover facts known or opinions held by any person who has been identified as an expert whose opinions may be presented at trial. If a report from the expert is required under Paragraph B, the deposition shall not be conducted until after the report is provided.

(2) A party may, through interrogatories or by deposition, discover facts known by and opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in Article 1465 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(3) Unless manifest injustice would result, the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this Paragraph; and with respect to discovery obtained under Subparagraph (2) of this Paragraph, the court shall also require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

E.(1) The expert's drafts of reports required under Paragraph B of this Article, and communications, including notes and electronically stored information or portions thereof that would reveal the mental impressions, opinions, or trial strategy of the attorney for the party who has retained the expert to testify, shall not be discoverable except, in either case, on a showing of exceptional circumstances under which it is impractical for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(2) Nothing in this Article shall preclude opposing counsel from obtaining any facts or data the expert is relying on in forming his opinion, including that coming from counsel, or from otherwise inquiring fully of an expert into what facts or data the expert considered, whether the expert considered alternative approaches, or into the validity of the expert's opinions.

F.(1) Any party may file a motion for a pretrial hearing to determine whether a witness qualifies as an expert or whether the methodologies employed by such witness are reliable under Articles 702 through 705 of the Louisiana Code of Evidence. The motion shall be filed not later than sixty days prior to trial and shall set forth sufficient allegations showing the necessity for these determinations by the court.

(2) The court shall hold a contradictory hearing and shall rule on the motion not later than thirty days prior to the trial. At the hearing, the court shall consider the qualifications and methodologies of the proposed witness based upon the provisions of Articles 104(A) and 702 through 705 of the Louisiana Code of Evidence. For good cause shown, the court may allow live testimony at the contradictory hearing.

(3) If the ruling of the court is made at the conclusion of the hearing, the court shall recite orally its findings of fact, conclusions of law, and reasons for judgment. If the matter is taken under advisement, the court shall render its ruling and provide written findings of fact, conclusions of law, and reasons for judgment not later than five days after the hearing.
(4) The findings of facts, conclusions of law, and reasons for judgment shall be made part of the record of the proceedings. The findings of facts, conclusions of law, and reasons for judgment shall specifically include and address:

(a) The elements required to be satisfied for a person to testify under Articles 702 through 705 of the Louisiana Code of Evidence.

(b) The evidence presented at the hearing to satisfy the requirements of Articles 702 through 705 of the Louisiana Code of Evidence at trial.

(c) A decision by the judge as to whether or not a person shall be allowed to testify under Articles 702 through 705 of the Louisiana Code of Evidence at trial.

(d) The reasons of the judge detailing in law and fact why a person shall be allowed or disallowed to testify under Articles 702 through 705 of the Louisiana Code of Evidence.

(5) A ruling of the court pursuant to a hearing held in accordance with the provisions of this Paragraph shall be subject to appellate review as provided by law.
(6) Notwithstanding the time limitations in Subparagraphs (1), (2), and (3) of this Paragraph, by unanimous consent of the parties, and with approval by the court, a motion under this Paragraph may be filed, heard, and ruled upon by the court at any time prior to trial. The ruling by the court on such motion shall include findings of fact, conclusions of law, and reasons for judgment complying with the provisions of Subparagraph (4) of this Paragraph.
(7) The provisions of this Paragraph shall not apply to testimony in an action for divorce or annulment of marriage, or to a separation in a covenant marriage, to a property partition, or to an administration of a succession, or to testimony in any incidental or ancillary proceedings or matters arising from such actions.
(8) All or a portion of the court costs, including reasonable expert witness fees and costs, incurred when a motion is filed in accordance with this Paragraph may, in the discretion of the court, be assessed to the non-prevailing party as taxable costs at the conclusion of the hearing on the motion.
Acts 1976, No. 574, §1; Acts 2003, No. 545, §1; Acts 2007, No. 140, §1; Acts 2008, No. 787, §1, eff. Jan. 1, 2009; Acts 2014, No. 665, §1.
NOTE: See Acts 2008, No. 787, §3 re: effectiveness of Act.

Art. 1426. Protective orders

A. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:
(1) That the discovery not be had.
(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place.
(3) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery.

(4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.
(5) That discovery be conducted with no one present except persons designated by the court.
(6) That a deposition after being sealed be opened only by order of the court.
(7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.
(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the courts.

B. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Article 1469 apply to the award of expenses incurred in relation to the motion.

C. No provision of this Article authorizes a court to issue a protective order preventing or limiting discovery or ordering records sealed if the information or material sought to be protected relates to a public hazard or relates to information which may be useful to members of the public in protecting themselves from injury that might result from such public hazard, unless such information or material sought to be protected is a trade secret or other confidential research, development, or commercial information.

D. Any portion of an agreement or contract which has the purpose or effect of concealing a public hazard, any information relating to a public hazard, or any information which may be useful to members of the public in protecting themselves from injury that might result from a public hazard is null and shall be void and unenforceable as contrary to public policy, unless such information is a trade secret or other confidential research, development, or commercial information.

E. Any substantially affected person or any representative of the news media has standing to contest any order or judgment that violates the provisions of Paragraph C of this Article or any agreement or contract contrary to public policy pursuant to Paragraph D of this Article.
Acts 1976, No. 574, §1; Acts 1995, No. 4[illegible], §1.

Art. 1426.1. Stay of discovery in civil matters by a district attorney in a related criminal matter

A. Upon motion of the district attorney in a criminal proceeding, a court having jurisdiction over any related pending civil action or proceeding may, in the interests of justice and for good cause shown after a contradictory hearing with all parties in the civil action, stay all or a portion of discovery sought in such civil action or proceeding. The contradictory hearing shall be held by the court in the civil action within thirty days of the filing of the motion. Good cause shall include but not be limited to a finding by the court that such discovery will adversely affect the ability of the district attorney to conduct a related criminal investigation or the prosecution of a related felony criminal case.

B. No provision of this Article shall prohibit a party to the stayed discovery proceeding from moving to have the stay subsequently lifted for good cause.

C. Within thirty days after disposition in the trial court of the related criminal prosecution, in any matter where a stay has issued, the district attorney shall file an ex parte motion consenting to the termination of the stay.

D. The time during which the civil proceeding is stayed pursuant to this Article shall not be used to compute the three-year abandonment period of the civil matter.

E. Repealed by Acts 2017, No. 91, §1.

Acts 2012, No. 664, §1; Acts 2017, No. 91, §1.

Art. 1427. Sequence and timing of discovery

Unless the court upon motion, for the convenience of parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

Acts 1976, No. 574, §1.

Art. 1428. Supplementation of responses

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which he knows that the response was incorrect when made, or he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

Acts 1976, No. 574, §1.

SECTION 2. DEPOSITIONS: GENERAL DISPOSITIONS

Art. 1429. Perpetuation of testimony; petition

A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any court of this state may file a verified petition in a court in which the anticipated action might be brought. The petition shall be entitled in the name of the petitioner and shall show:

(1) That the petitioner expects to be a party to an action cognizable in a court of this state but is presently unable to bring it or cause it to be brought.

(2) The subject matter of the expected action and his interest therein.

(3) The facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it.

(4) The names or a description of the persons he expects will be adverse parties and their addresses so far as known.
(5) The names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.
Acts 1976, No. 574, §1.

Art. 1430. Notice and service of petition; perpetuation of testimony

The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty days before the date of hearing the notice shall be served as provided in Article 1314; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Article 1314, an attorney who shall represent them, and, in case they are not otherwise represented, shall cross examine the deponent. If any expected adverse party is a minor or incompetent the court shall appoint an attorney to represent him.
Acts 1976, No. 574, §1.

Art. 1430.1. Ex parte order; death or incapacitating illness

A. Notwithstanding the provisions of Article 1430, the court may by ex parte order grant the perpetuation of testimony as provided in Article 1431 if:
(1) The facts set forth in the petition show the desire to perpetuate testimony is based upon a reasonable belief that there is a substantial possibility that the person whose testimony is sought will die or be too incapacitated to testify before a contradictory hearing can be held; and
(2) The interest of justice requires the immediate perpetuation of the testimony.

B. Should the court grant perpetuation of testimony in accordance with this Article, the petitioner shall give reasonable notice in writing to an expected adverse party of the time and place for perpetuating the testimony, manner of perpetuation, name and address of the person whose testimony is to be perpetuated, and the subject matter of the testimony.

C. If an expected adverse party is a minor or incompetent, the court shall appoint an attorney to represent him, and the notice shall be sent to the attorney.

D. No appeal shall lie from the granting or denial of an ex parte order under this Article. The admissibility at trial or other proceeding of any testimony perpetuated under this Article shall be governed by the Louisiana Code of Evidence.

E. The procedure authorized by this Article shall be in addition to any other procedure provided by law for the perpetuation of testimony.
Acts 1989, No. 53, §1.

Art. 1431. Order and examination; perpetuation of testimony

If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with this Chapter; and the court may make orders of the character provided for by Articles 1461 through 1465. For the purpose of applying the provisions of this Chapter to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.
Acts 1976, No. 574, §1.

Art. 1432. Use of deposition

A deposition to perpetuate testimony taken under Articles 1429 through 1431 may be used in any action involving the same subject matter subsequently brought in any court of this state, in accordance with the provisions of Article 1450.
Acts 1976, No. 574, §1.

Art. 1433. Deposition after trial

A. If an appeal has been taken from a judgment of a district court or before the taking of an appeal if the time has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show:
(1) The names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each.
(2) The reasons for perpetuating their testimony.

B. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for in Articles 1461 through 1465, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in this Chapter for depositions taken in actions pending in the court.

C. In aid of execution of the judgment, the district court in which the judgment was rendered may, upon motion of the judgment creditor, allow the taking of a third person's deposition, as provided in Article 2451, upon the same notice and service thereof as if the action was pending in the district court. The person whose deposition is so ordered shall be reimbursed by the judgment creditor for the reasonable costs incurred or to be incurred in the course of complying with the order, including document reproduction costs and travel expenses.
Acts 1976, No. 574, §1; Acts 1990, No. 1000, §1.

Art. 1434. Person before whom deposition taken

A.(1) A deposition shall be taken before an officer authorized to administer oaths, who is not an employee or attorney of any of the parties or otherwise interested in the outcome of the case.

(2) For purposes of this Article, an employee includes a person who has a contractual relationship with a party litigant to provide shorthand reporting or other court reporting services and also includes a person employed part or full time under contract or otherwise by a person who has a contractual relationship with a party litigant to provide shorthand reporting or other court reporting services. A party litigant does not include federal, state, or local governments, and the subdivisions thereof, or parties in proper person.

B. "Officer" as used in this Article means a certified shorthand or general reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555(B)(1) and (2).

C. In a video deposition, the deponent can be sworn by anyone authorized to take oaths. The oath shall be recorded on tape.

Acts 1976, No. 574, §1; Acts 1990, No. 295, §1; Acts 1990, No. 842, §1, eff. July 24, 1990; Acts 1995, No. 1145, §1.

{{NOTE: SEE ACTS 1990, NO. 842, §2 FOR TRANSITIONAL PROVISION.}}

Art. 1435. Deposition taken in another state, or in a territory, district, or foreign jurisdiction; exceptions; nonresident insurance claims adjusters

A. If the witness whose deposition is to be taken is found in another state, or in a territory, district, or foreign jurisdiction, the law of the place where the deposition is to be taken shall govern the compulsory process to require the appearance and testimony of witnesses, but otherwise the provisions of this Chapter or of R.S. 13:3823 shall be applicable to such a deposition.

B.(1) Notwithstanding any other provision of law to the contrary, an insurance claims adjuster who is not a resident of Louisiana but who has made a physical appearance in the state in order to adjust an insurance claim which is the subject of a civil suit shall be required to appear in person in the parish or venue in which the civil suit is pending and to testify at the trial on the merits.

(2) A nonresident insurance claims adjuster subject to the provisions of Subparagraph (1) of this Paragraph shall be available for deposition via telephone or video teleconference. A deposition taken via telephone or video teleconference shall not be admissible as testimony at trial other than for the purpose of impeachment, or upon the showing of death or incapacity of the deponent.

(3) For purposes of this Article, "insurance claims adjuster" shall have the same meaning as "adjuster" as defined in R.S. 22:1661.

C. Paragraph B of this Article shall not apply to any insurance claims adjuster for an insurer domiciled in Louisiana.

Acts 1976, No. 574, §1; Acts 2022, No. 504, §1.

Art. 1436. Stipulations; manner of taking; modification of procedures

Unless the court orders otherwise and except as provided by Article 1425, the parties may by written stipulation provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and modify the procedures provided by these rules for other methods of discovery.

A witness who is a resident of this state may be required to attend an examination to take his deposition only in the parish in which he resides or is employed or transacts his business in person, or at such other convenient place as may be fixed by order of court. A witness who is a nonresident of this state, but is temporarily in this state, may be required to attend an examination to take his deposition only in the parish where he is served with a subpoena or at such other convenient place as may be fixed by order of court.

Acts 1976, No. 574, §1.

Art. 1436.1. Depositions by telephone

If agreed upon by every party to a suit or if ordered by the court, a deposition may be taken by telephone or other remote electronic means.

Acts 1986, No. 205, §1; Acts 2003, No. 545, §1.

Art. 1437. Deposition upon oral examination; when deposition may be taken

After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of fifteen days after service of citation upon any defendant, except that leave is not required if a defendant has served a notice of taking deposition or otherwise sought discovery, or if special notice is given as provided in Article 1442. The attendance of witnesses may be compelled by the use of subpoena as for witnesses in trials. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

Acts 1976, No. 574, §1.

Art. 1438. Notice of examination; time and place; subpoena duces tecum

A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

The court may for cause shown lengthen or shorten the time for taking the deposition.

Acts 1976, No. 574, §1.

Art. 1439. Special notice

Leave of court is not required for the taking of a deposition by plaintiff if the notice states that the person to be examined is about to go out of the state and will be unavailable for examination unless his deposition is taken before expiration of the fifteen-day period, and sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Articles 863 and 864 are applicable to the certification.

If a party shows that when he was served with notice under this Article he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

Acts 1976, No. 574, §1.

Art. 1440. Nonstenographic recordation of testimony

The testimony at a deposition may be recorded by other than stenographic means, in which event the notice shall designate the manner of recording, preserving, and filing the deposition, and shall include other provisions to assure that the recorded testimony will be accurate and trustworthy. A videotaped deposition may be taken and used without court order just as any other deposition. A certified shorthand reporter shall be present at the time of any videotaped deposition taken without a court order unless waived by all parties. A party may nevertheless arrange to have a stenographic transcription made at his own expense.

Acts 1976, No. 574, §1; Acts 1990, No. 295, §1.

Art. 1441. Production of documents and things

The notice to a party deponent may be accompanied by a request made in compliance with Article 1461 for the production of documents and tangible things at the taking of the deposition. The procedure of Article 1461 through 1463 shall apply to the request.

Acts 1976, No. 574, §1.

Art. 1442. Deposition of an organization

A party may in his notice name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. The organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. This Article does not preclude taking a deposition by any other procedure authorized in this Chapter.

Acts 1976, No. 574, §1.

Art. 1443. Examination and cross-examination; record of examination; oath; objections

A. Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the Louisiana Code of Evidence. The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by

someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means. If requested by one of the parties, the testimony shall be transcribed.

B. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. The officer shall cease or suspend recordation of the testimony, questions, objections, or any other statements only upon agreement of all counsel and parties present at the deposition, or upon termination or suspension of the deposition pursuant to Code of Civil Procedure Article 1444. Any objection during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. Evidence objected to shall be taken subject to the objections. Counsel shall cooperate with and be courteous to each other and to the witness and otherwise conduct themselves as required in open court and shall be subject to the power of the court to punish for contempt. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition, and he shall transmit them to the officer, or anyone authorized to take oaths, who shall propound them to the witness and record the answers verbatim.

C. "Officer" as used in this Article means a certified shorthand reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555 (C) and (D).

D. Unless otherwise stipulated or as provided in Article 1455, objections are considered reserved until trial or other use of the deposition. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence imposed by the court, to prevent harassing or repetitious questions, or to prevent questions which seek information that is neither admissible at trial nor reasonably calculated to lead to the discovery of admissible evidence.

E. If the court finds that an objection made during a deposition taken for trial purposes is in violation of this Article, the court shall order the party in violation to pay for the editing or redacting of the transcript or video, along with any other costs or sanctions the court deems appropriate unless good cause is shown.

Acts 1976, No. 574, §1; Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 1990, No. 295, §1; Acts 1990, No. 842, §1, eff. July 24, 1990; Acts 1997, No. 1056, §1; Acts 2004, No. 365, §1; Acts 2010, No. 456, §1; Acts 2010, No. 458, §1.

Art. 1444. Motion to terminate; limit examination

At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Article 1426. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court. Upon demand of the objecting party or deponent, the taking of the deposition

shall be suspended for the time necessary to make a motion for an order. The provisions of Article 1469 apply to the award of expenses incurred in relation to the motion.
Acts 1976, No. 574, §1.

Art. 1445. Submission to witness; changes; signing

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness unless the parties by stipulation waive the signing or the witness is ill or is absent from the parish where the deposition was taken or cannot be found or refuses to sign. If the deposition is not signed by the witness within thirty days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Article 1450 the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. A video deposition does not have to comply with the requirements of reading and signing by the deponents.
Acts 1976, No. 574, §1; Acts 1990, No. 295, §1.

Art. 1446. Certification by officer; custody of deposition; exhibits; copies; notice of availability for inspection or copying; copies of originals and copies of transcripts

A.(1)(a) The officer as defined in Article 1434(B) shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness.

(b) The officer shall do either of the following:

(i) Securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly and simultaneously send it by United States mail or by courier to the party at whose request the deposition was taken, who shall become the custodian of the deposition, and to all other parties to the action who have ordered a copy of the deposition transcript.

(ii) At the request of the parties, seal the deposition electronically by secure electronic means approved by rules promulgated by the Louisiana Board of Examiners of Certified Shorthand Reporters and shall promptly and simultaneously deliver the deposition electronically to the party at whose request the deposition was taken and to all other parties to the action who have ordered a copy of the deposition transcript. The party at whose request the deposition was taken shall then become the custodian of the deposition.

(c) The original of the deposition shall not be filed in the record, but shall be made available to all other parties in the matter for inspection or copying. The failure or lack of filing such original in the record shall not affect the use or admissibility of the original at trial or by the court if otherwise authorized or provided by law.

(2) Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that the person producing

the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

B.(1) Upon payment of reasonable charges therefor, the officer as defined in Article 1434(B) shall furnish a copy of the deposition to any party or to the deponent.

(2) Except as provided by Subparagraph (4) of this Paragraph, an attorney who takes a deposition, the attorney's firm, and the client are liable in solido for a certified shorthand reporter's charges for the reporting of the deposition, transcribing the deposition, and each copy of the deposition transcript requested by the attorney.

(3) Except as provided by Subparagraph (4) of this Paragraph, an attorney who appears at a deposition, the attorney's firm, and the client are liable in solido for the certified shorthand reporter's charges for each copy of the deposition transcript provided by the certified shorthand reporter at the request of the attorney.

(4) Prior to the taking of any deposition, a determination of the person who will pay for the deposition costs shall be agreed upon by the parties in writing or be made on the record, if an attorney is unwilling to be bound by the provisions of Subparagraphs (2) or (3) of this Paragraph. If this determination is made in writing instead of on the record, the certified shorthand reporter shall give a copy of the written determination to all the parties.

(5) In this Paragraph "firm" means a partnership organized for the practice of law in which an attorney is a partner or with which an attorney is associated, or a professional corporation organized for the practice of law of which an attorney is a shareholder or employee. An attorney "takes" a deposition if the attorney obtains the deponent's appearance through an informal request of the deponent directly or through his attorney, or obtains the deponent's appearance through a formal means, including a notice of deposition or subpoena.

(6) Nothing contained in this Paragraph shall preclude the court from awarding the charges of the certified shorthand reporter as a court cost.

C. The party taking the deposition shall give prompt notice to all other parties of its availability for inspection or copying.

D. The taking of a deposition shall be considered a step in the prosecution or defense of an action for the purposes of Article 561, notwithstanding that the deposition is not filed in the record of the proceedings.

Acts 1989, No. 388, §1, eff. June 30, 1989; Acts 1992, No. 336, §1; Acts 1992, No. 1002, §1, eff. Sept. 1, 1992; Acts 2017, No. 268, §1.

Art. 1447. Failure to attend or to serve subpoena; expenses

A. If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

B. If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party

attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.
Arts 1976, No. 574, §1.

Art. 1448. Serving written questions; notice

A. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as for witnesses in trials. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

B. A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Article 1442.

C. Within thirty days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within ten days after being served with cross questions, a party may serve redirect questions upon all other parties. Within ten days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.
Acts 1976, No. 574, §1.

Art. 1449. Taking of testimony; preparation of record; notice of filing

A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Articles 1443, 1445, and 1446, to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.
Acts 1976, No. 574, §1.

Art. 1450. Use of depositions

A. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the Louisiana Code of Evidence applied as though the witnesses were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:
(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Article 1442 or 1448 to testify on behalf of a public or private corporation, partnership, or association, or governmental agency which is a party may be used by an adverse party for any purpose.
(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

(a) That the witness is unavailable;

(b) That the witness resides at a distance greater than one hundred miles from the place of trial or hearing or is out of the state, unless it appears that the absence of the witness was procured by the party offering the deposition; or

(c) Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which, in fairness, should be considered with the part introduced, and any party may introduce any other parts.
(5) However, any party may use the deposition of an expert witness for any purpose upon notice to all counsel of record, any one of whom shall have the right within ten days to object to the deposition, thereby requiring the live testimony of an expert. The objecting counsel of record shall pay in advance the fee, reasonable expenses, and actual costs of such expert witness associated with such live testimony. The fees, expenses, and costs specified in this Subparagraph shall be subject to the approval of the court. The provisions of this Subparagraph do not supersede Subparagraph (A)(3) nor Code of Evidence Article 804(A). However, the court may permit the use of the expert's deposition, notwithstanding the objection of counsel to the use of that deposition, if the court finds that, under the circumstances, justice so requires.

B. Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of this state or the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

C. Conflicts between this Article and Code of Evidence Article 804, regarding the use of depositions, shall be resolved by the court in its discretion.

Acts 1976, No. 574, §1; Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 1990, No. 134, §1; Acts 1991, No. 304, §1, eff. July 3, 1991; Acts 1992, No. 645, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000.

Art. 1451. Objections to admissibility

Subject to the provisions of R.S. 13:3823 and Article 1455, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

Acts 1976, No. 574, §1.

Art. 1452. Effect of taking or using depositions; deposing attorneys of record

A. A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in Article 1450(2). At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

B. No attorney of record representing the plaintiff or the defendant shall be deposed except under extraordinary circumstances and then only by order of the district court after contradictory hearing.

Acts 1976, No. 574, §1. Amended by Acts 1981, No. 767, §1.

Art. 1453. Objection to irregularities in notice; waiver

All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

Acts 1976, No. 574, §1.

Art. 1454. Objections as to disqualification of officer; waiver

An objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

Acts 1976, No. 574, §1.

Art. 1455. Objections, competency of witnesses; relevancy of testimony; manner or form of taking deposition

Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

Objections to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonably made at the taking of the deposition.

Objections to the form of written questions submitted under Articles 1448 and 1449 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross questions and within five days after service of the last questions authorized.

Acts 1976, No. 574, §1.

Art. 1456. Objection as to completion and return of deposition

Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under Articles 1437 through 1449 are waived unless a motion to suppress the

deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.
Acts 1976, No. 574, §1.

Art. 1457. Interrogatories to parties; availability; additional, hearing required

A. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may accompany the petition or be served after commencement of the action and without leave of court.

B. During an entire proceeding, written interrogatories served in accordance with Paragraph A shall not exceed thirty-five in number, including subparts, without leave of court. Additional interrogatories, not to exceed thirty-five in number including subparts, shall be allowed upon ex parte motion of any party. Thereafter, any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause why they should be allowed to be filed. The court after contradictory hearing and for good cause shown may allow the requesting party to serve such additional interrogatories as the court deems appropriate. Local rules of court may provide a greater restriction on the number of written interrogatories.
Acts 1976, No. 574, §1; Acts 1993, No. 416, §1; Acts 1997, No. 1315, §1.

Art. 1458. Interrogatories to parties; procedures for use

A. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The written answer or reasons for objection to each interrogatory shall immediately follow a restatement of the interrogatory to which the answer or objection is responding. The answers are to be signed by the person making them. When interrogatories are served on a specific party, that party shall verify he has read and has confirmed the answers and objections. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within thirty days after the service of the interrogatories, except as set forth in Paragraph B of this Article. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Article 1469 with respect to any objection to or other failure to answer an interrogatory.

B. The delay for serving a copy of the answers to interrogatories in family law cases, including divorce, custody, spousal and child support, community property, and matters incidental to family law proceedings, shall be fifteen days after service of the discovery, unless the interrogatories are served with an original petition, in which case the party who has been served shall have thirty days from the date of service to serve a copy of the answers to interrogatories.
Acts 1976, No. 574, §1; Acts 1993, No. 416, §1; Acts 2010, No. 682, §1, eff. Jan. 1, 2011; Acts 2016, No. 132, §1; Acts 2018, No. 135, §1.

Art. 1459. Interrogatories to parties; scope; use at trial

Interrogatories may relate to any matters which can be inquired into under Articles 1422 through 1425, and the answers may be used at trial to the extent permitted by rules of evidence.

Acts 1976, No. 574, §1.

Art. 1460. Option to produce business records

When the answer to an interrogatory may be derived or ascertained from the business records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, including a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

Acts 1976, No. 574, §1. Amended by Acts 1982, No. 450, §1; Acts 2007, No. 140, §1.

Art. 1461. Production of documents and things; entry upon land; scope

Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on his behalf, to inspect, copy, test, and sample any designated documents or electronically stored information, including writings, drawings, graphs, charts, photographs, phono-records, sound recordings, images, and other data or data compilations in any medium from which information can be obtained, translated, if necessary, by the respondent through detection and other devices into reasonably usable form, or except as provided in Article 1462(E), to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Articles 1422 through 1425 and which are in the possession, custody, or control of the party upon whom the request is served; or (2) except as provided in Article 1462(E), to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Articles 1422 through 1425.

Acts 1976, No. 574, §1; Acts 2007, No. 140, §1.

Art. 1462. Production of documents and things; entry upon land; procedure

A. The request under Article 1461 may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the petition upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form or forms in which information, including electronically stored information, is to be produced.

B.(1) The party upon whom the request is served shall serve a written response within thirty days after service of the request, except as set forth in Subparagraph (2) of this Paragraph. The court may allow a shorter or longer time. With respect to each item or category, the response shall state that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The written answer or reasons for objection to each

request for production of documents shall immediately follow a restatement of the request for production of documents to which the answer or objection is responding. The party submitting the request may move for an order under Article 1469 with respect to any objection to or other failure to respond to the request, or any part thereof, or any failure to permit inspection as requested. If objection is made to the requested form or forms for producing information, including electronically stored information, or if no form was specified in the request, the responding party shall state in its response the form or forms it intends to use.

(2) The delay for serving a copy of the responses to requests in family law cases, including divorce, custody, spousal and child support, community property, and matters incidental to family law proceedings, shall be fifteen days after service of the discovery, unless the request is served with an original petition, in which case the party who has been served shall have thirty days from the date of service to serve a copy of the answers to the request.

(3) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought shall show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause. The court may specify conditions for the discovery considering the criteria and limitations of Article 1426.

C. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories of the request. If a request does not specify the form or forms for producing information, including electronically stored information, a responding party shall produce the information in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable. When electronically stored information is produced, the responding party shall identify the specific means for electronically accessing the information.

D. Unless otherwise ordered by the court, a party need not produce the same information, including electronically stored information, in more than one form.

E. If the requesting party considers that the production of designated electronically stored information is not in compliance with the request, the requesting party may move under Article 1469 for an order compelling discovery, and in addition to the other relief afforded by Article 1469, upon a showing of good cause by the requesting party, the court may order the responding party to afford access under specified conditions and scope to the requesting party, the representative of the requesting party, or the designee of the court to the computers or other types of devices used for the electronic storage of information to inspect, copy, test, and sample the designated electronically stored information within the scope of Articles 1422 and 1425.

Acts 1976, No. 574, §1. Amended by Acts 1982, No. 451, §1; Acts 2007, No. 140, §1; Acts 2010, No. 185, §1; Acts 2010, No. 682, §1, eff. Jan. 1, 2011; Acts 2014, No. 655, §1; Acts 2016, No. 132, §1; Acts 2018, No. 135, §1.

Art. 1463. Production of documents and things; entry upon land, persons not parties

A. Articles 1461 and 1462 do not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

B. In addition, a party may have a subpoena duces tecum served on a person not a party directing that person to produce documents and things for inspection and copying or to permit entry onto and inspection of land, provided that a reasonably accurate description of the things to

be produced, inspected, or copied is given. A reasonable notice of the intended inspection, specifying date, time, and place shall be served on all other parties and shall specify that the other parties may attend and participate in the inspection and copying of the things to be produced. The rules applicable to depositions and subpoenas duces tecum issued and served in connection with depositions shall apply except to the extent inconsistent with this Paragraph.
Acts 1976, No. 574, §1; Acts 1995, No. 410, §1.

Art. 1464. Order for physical or mental examination of persons

A. When the mental or physical condition of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to an additional medical opinion regarding physical or mental examination by a physician or to produce for examination the person in his custody or legal control, except as provided by law. In addition, the court may order the party to submit to an additional medical opinion regarding an examination by a vocational rehabilitation expert or a licensed clinical psychologist who is not a physician, provided the party has given notice of intention to use such an expert. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

B. Regardless of the number of defendants, a plaintiff shall not be ordered to submit to multiple examinations by multiple physicians within the same field of specialty for the same injury except for good cause shown.

C. A minor subject to examination under the provisions of this Article shall have the right to have a parent, tutor, or legal guardian present during the examination. If such person cannot be present, the court shall order the examination to be videotaped at the expense of the party being examined. The court shall consider the best interests of the minor and may impose conditions upon videotaping, including that it be done in a manner least harmful to the minor and without disclosure to the minor.
Acts 1976, No. 574, §1; Acts 1991, No. 324, §1; Acts 1997, No. 1056, §1; Acts 2017, No. 381, §1, eff. June 23, 2017.

Art. 1465. Report of examining physician

A. If requested by the party against whom an order is made under Article 1464 or by the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings, including results of all tests made, diagnoses, and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that he is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if a physician fails or refuses to make a report the court may exclude his testimony if offered at the trial.

B. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or

any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

C. This Article applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This Article does not preclude discovery of a report of an examining physician or the taking of a deposition of the physician in accordance with the provisions of any other rule.

Acts 1976, No. 574, §1; Acts 1993, No. 619, §1.

Art. 1465.1. Requests for release of medical records

A. Any party may serve upon the plaintiff or upon any other party whose medical records are relevant to an issue in the case a request that the plaintiff or other authorized person sign a medical records release authorizing the health care provider to release to the requesting party the medical records of the party whose medical condition is at issue. The release shall be directed to a specific health care provider, shall authorize the release of medical records only, and shall state that the release does not authorize verbal communications by the health care provider to the requesting party.

B. The party upon whom the request is served, within thirty days after service of the request, shall provide to the requesting party releases signed by the plaintiff or other authorized person unless the request is objected to, in which event the reasons for the objection shall be stated. The party requesting the release of medical records may move for an order under Article 1469 with respect to any objection or other failure to respond to the request.

C. The party requesting the medical records shall provide to the party whose medical records are being sought or to his attorney, if he is represented by an attorney, a copy of the request directed to the health care provider, which copy shall be provided contemporaneously with the request directed to the health care provider.

D. The party requesting the medical records shall provide to the party whose medical records are being sought or to his attorney, within seven days of receipt, a copy of all documents obtained by the requesting party pursuant to the release.

Acts 1993, No. 823, §1; Acts 2016, No. 132, §1.

Art. 1466. Requests for admission; service of request

A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Articles 1422 through 1425 set forth in the request or of the truth of any relevant matters of fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the petition upon that party.

Acts 1976, No. 574, §1.

Art. 1467. Requests for admission; answers and objections

A. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. The written answer or reasons for objection to each request for admission shall immediately follow a restatement of the request for admission to which the answer or objection is responding. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Article 1472, deny the matter or set forth reasons why he cannot admit or deny it.

B. The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of Article 1469 apply to the award of expenses incurred in relation to the motion.

Acts 1976, No. 574, §1; Acts 2010, No. 482, §1, eff. Jan. 1, 2011; Acts 2016, No. 132, §1.

Art. 1468. Requests for admissions; effect of admission

Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Article 1551 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under Articles 1466 and 1467 is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

Acts 1976, No. 574, §1.

Art. 1469. Motion for order compelling discovery

A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) An application for an order to a party or a deponent who is not a party may be made to the court in which the action is pending.

(2) If a deponent fails to answer a question propounded or submitted under Articles 1437 or 1448, or a corporation or other entity fails to make a designation under Articles 1442 or 1448, or a party fails to answer an interrogatory submitted under Article 1457, or if a party, in response to a request for inspection submitted under Article 1461, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to Article 1426.

(3) For purposes of this Subdivision an evasive or incomplete answer is to be treated as a failure to answer.

(4) If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(5) An application for an order compelling discovery to a member or former member of the legislature in his capacity as a state lawmaker or a legislative employee in his official capacity, when the legislature or either body thereof is not a party to the proceeding may be made to the court in which the action is pending, but no order compelling discovery shall issue except in strict conformity with the provisions of R.S. 13:3667.3(C). For purposes of this Article "legislative employee" means the clerk of the House of Representatives, the secretary of the Senate, or an employee of the House of Representatives, the Senate, or the Legislative Bureau.

Acts 1976, No. 574, §1; Acts 2006, No. 690, §1, eff. June 29, 2006; Acts 2008, No. 374, §1, eff. June 21, 2008; Acts 2012, No. 519, §1.

Art. 1469.1. Order compelling discovery of medical records

No order, subpoena, or subpoena duces tecum for the purpose of obtaining or compelling the production or inspection of medical, hospital, or other records relating to a person's medical treatment, history, or condition, including a subpoena or order issued under Article 1463 and including a subpoena compelling the attendance of the custodian of records or other employee of the health care provider, either by name, title, or position, in connection with such production, shall be granted or issued except as provided in R.S. 13:3715.1.

Acts 1986, No. 1046, §1; Acts 1988, No. 980, §1; Acts 1995, No. 1250, §1.

Art. 1469.2. Order compelling discovery of financial records; notice

An order or subpoena duces tecum compelling the production of records of a bank, a savings and loan association, a company issuing credit cards, or a business offering credit relating to the financial or credit information of its customers, whether pursuant to Articles 1421 through 1474, Articles 2451, et seq., or otherwise, shall not be enforceable, unless the person seeking production of such records has complied with the provisions of R.S. 9:3571 or R.S. 6:333, as applicable, requiring that a copy of the subpoena or order also be served on the person whose records are being sought.

Acts 1989, No. 157, §2; Acts 1989, No. 779, §3, eff. July 9, 1989; Acts 1990, No. 1000, §1.

Art. 1470. Failure to comply with order compelling discovery; contempt

If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court in which the action is pending or in which the judgment was originally rendered, the refusal shall be considered a contempt of the court of the parish where the deposition is being taken.

Acts 1976, No. 574, §1.

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.

(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.

Art. 1472. Failure to admit; expenses

If a party fails to admit the genuineness of any document or the truth of any matter as requested under Article 1466, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that the request was held objectionable pursuant to Article 1467, or the admission sought was of no substantial importance, or the party failing to admit had reasonable ground to believe that he might prevail on the matter, or there was other good reason for the failure to admit.

Acts 1976, No. 574, §1.

Art. 1473. Failure to attend deposition, serve answers or respond to request for inspection

If a party or an officer, director, or managing agent of a party or a person designated under Articles 1442 or 1448 to testify on behalf of a party fails to appear before the officer who is to take his deposition, after being served with a proper notice, or to serve answers or objections to interrogatories submitted under Article 1457, after proper service of the interrogatories, or to serve a written response to a request for inspection submitted under Article 1461, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under Paragraphs (1), (2), and (3) of Article 1471. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's 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.

The failure to act described in this Article may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Article 1426.

Acts 1976, No. 574, §1.

Art. 1474. Service of written objections, notices, requests, affidavits, interrogatories, and answers thereto

A. Except as otherwise provided by Article 1430, all of the objections, notices, requests, affidavits, interrogatories, and answers to interrogatories, required by any Article in this Chapter to be in writing and served on an adverse party, may be served as provided in Article 1313.

B. Interrogatories and the answers thereto, requests for production or inspection, and requests for admissions and the responses thereto authorized by Article 1421 shall be served upon other counsel or parties, but shall not be filed in the record of the proceedings, unless filing is required under the provisions of Paragraph C of this Article or unless ordered to be filed by the court. The failure or lack of filing such items shall not affect the use or admissibility at trial or by

the court if otherwise authorized or provided by law. The party responsible for service of the discovery materials shall retain the original and become the custodian of such materials.

C.(1) If relief is sought under Article 1467 or 1469 with regard to any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories, or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers, or responses in dispute shall be filed with the court contemporaneously with any motion filed under such Articles.

(2) If interrogatories, requests, answers, or responses are to be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed in the proceedings at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

(3) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the court, or by stipulation of counsel, the necessary discovery materials shall be filed in the proceedings.

(4) The serving of any discovery materials pursuant to the provisions of this Article shall be considered a step in the prosecution or defense of an action for purposes of Article 561, notwithstanding that such discovery materials are not filed in the record of the proceedings.

D. The provisions of this Article shall not be construed to preclude the filing of any discovery materials as exhibits or as evidence in connection with a motion or at trial.

Acts 1989, No. 388, §1, eff. June 30, 1989.

Art. 1475. Affidavit for medical cost; counter affidavit; service

A.(1) Unless a controverting affidavit is filed as provided for in this Article, an affidavit establishing medical services and costs shall be sufficient evidence to support a finding of fact by a judge or jury that the bill is authentic.

(2) The affidavit shall be made either by the person who provided the medical service or by the official custodian in charge of the medical records. The affidavit shall be accompanied by an itemized statement which shall set forth with specificity the medical service provided and the corresponding charge.

(3) The party submitting the affidavit in evidence shall file the affidavit with the clerk of court and serve a copy of the affidavit on other parties and all persons affected thereby at least thirty days before the trial.

B.(1) Any party intending to contravene the affidavit shall file a counter affidavit with the clerk of court and serve a copy of the counter affidavit on the other party or party's attorney of record not later than fifteen days after receipt of a copy of the affidavit and at least ten days before the trial or at any time before the trial with leave of court.

(2) The counter affidavit shall establish a reasonable basis on which the party intends to controvert the claim set forth in the initial affidavit and shall be made by a person who is qualified either by knowledge, skill, experience, training, or education, to testify in contravention of all or part of any matters contained in the initial affidavit.

C. If a counter affidavit is filed, and after opportunity for hearing, a party who fails to establish to the court's satisfaction that the medical statements are not authentic shall be required to pay to the initial affiant all costs and expenses incurred as a result of the hearing. The court may

BOOK VI. PROBATE PROCEDURE

TITLE I GENERAL DISPOSITIONS

CHAPTER 1. JURISDICTION

Art. 2811. Court in which succession opened

A proceeding to open a succession shall be brought in the district court of the parish where the deceased was domiciled at the time of his death.

If the deceased was not domiciled in this state at the time of his death, his succession may be opened in the district court of any parish where:

(1) Immovable property of the deceased is situated; or,

(2) Movable property of the deceased is situated, if he owned no immovable property in the state at the time of his death.

Art. 2812. Proceedings in different courts; stay; adoption of proceedings by court retaining jurisdiction

If proceedings to open the succession of a deceased person who was not domiciled in this state at the time of his death are brought in two or more district courts of competent jurisdiction, the court in which the proceeding was first brought shall retain jurisdiction over the succession, and the other courts shall stay their proceedings.

The court retaining jurisdiction may adopt by ex parte order any of the proceedings taken in any other Louisiana court of competent jurisdiction, with the same force and effect as if these proceedings had been taken in the adopting court.

CHAPTER 2. EVIDENCE OF JURISDICTION AND HEIRSHIP

Art. 2821. Evidence of jurisdiction, death, and relationship

The deceased's domicile at the time of his death, his ownership of property in this state, and all other facts necessary to establish the jurisdiction of the court may be evidenced by affidavits.

The deceased's death, his marriage, and all other facts necessary to establish the relationship of his heirs may be evidenced either by official certificates issued by the proper public officer, or by affidavits.

Art. 2822. Requirements of affidavit evidence

The affidavits referred to in Article 2821 shall be executed by two persons having knowledge of the facts sworn to. These affidavits shall be filed in the record of the succession proceeding.

Art. 2823. Additional evidence

In any case in which evidence by affidavit is permitted under Article 2821, the court may require further evidence of any fact sworn to therein by the introduction of evidence as in ordinary cases.

Art. 2824. No affidavit evidence of factual issues

No fact which is an issue in a contradictory proceeding in a succession may be proved by affidavit under Articles 2821 and 2822. In all such contradictory proceedings, issues of fact shall be determined on the trial thereof only by evidence introduced as in ordinary cases.

Art. 2825. Costs

In all succession proceedings conducted ex parte, the court costs are to be paid as administration expenses. In all contradictory succession proceedings, the court costs are to be paid by the party cast, unless the court directs otherwise.
Amended by Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 2826. Definition of certain terms used in Book VI

Except where the context clearly indicates otherwise, as used in the Articles of this Book:

(1) "Residuary legatee" includes a recipient of a universal legacy or a general legacy, and also includes a residuary heir.

(2) "Residuary heir" is a successor who inherits the residue of a testamentary succession in default of a valid disposition thereof by the testator.

(3) "Succession representative" includes an administrator, provisional administrator, administrator of a vacant succession, executor, and dative testamentary executor.
Acts 1997, No. 1421, §3, eff. July 1, 1999.

CHAPTER 3. PROBATE AND REGISTRY OF TESTAMENTS

SECTION 1. PROCEDURE PRELIMINARY TO PROBATE

Art. 2851. Petition for probate

If the deceased is believed to have died testate, any person who considers that he has an interest in opening the succession may petition a court of competent jurisdiction for the probate and execution of the testament.

Art. 2852. Documents submitted with petition for probate

A. The petitioner shall submit with his petition evidence of the death of the decedent, and of all other facts necessary to establish the jurisdiction of the court.

B. If the testament is one other than a statutory testament, a notarial testament, or a nuncupative testament by public act, and is in the possession of the petitioner, he shall present it to the court, and pray that it be probated and executed.
Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 2853. Purported testament must be filed, though possessor doubts validity

If a person has possession of a document purporting to be the testament of a deceased person, even though he believes that the document is not the valid testament of the deceased, or has doubts concerning the validity thereof, he shall present it to the court with his petition praying that the document be filed in the record of the succession proceeding.

A person so presenting a purported testament to the court shall not be deemed to vouch for its authenticity or validity, nor precluded from asserting its invalidity.

Art. 2854. Search for testament

If the testament is not in the possession of the petitioner, he shall pray that the court direct that a search be made for the testament by a notary of the parish. In its order directing the search, the court may order any person having in his possession or under his control any books, papers, or documents of the deceased, or any bank box, safety deposit vault, or other receptacle likely to contain the testament of the deceased, to permit the examination of the books, papers, and documents, and of the contents of the bank box, safety deposit vault, or other receptacle, by the notary.

Art. 2855. Return to order to search for testament

If the notary finds any document which purports to be a testament of the deceased, he shall take possession of it, and produce it in court with his written return to the order directing the search. The original petitioner, or any other interested person, may petition for the probate of the testament so produced.

If the search is unsuccessful, despite diligent effort, the notary shall make his written return to this effect to the court.

Art. 2856. Probate hearing; probate forthwith if witness present

When a testament that is required to be probated has been produced, the court shall order it presented for probate on a date and hour assigned. If all necessary witnesses are present in court at the time the testament is produced, the court may order it presented for probate forthwith.
Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 2857. Proponent must produce witnesses; subpoenas

The petitioner for the probate of the testament shall produce all necessary witnesses at the time assigned for the probate hearing, and may cause them to be subpoenaed to appear and testify.

SECTION 7. EX PARTE PROBATE OF TESTAMENTS

Art. 2881. Ex parte probate if no objection

The court shall proceed to probate the testament ex parte as provided in Article 2882, unless an objection thereto is made at the hearing.

An objection to the ex parte probate of a testament may be presented in an opposition, or made orally at the hearing. The opposition must comply with the provisions of Article 2902, and must be filed prior to the hearing. The oral objection must specify the grounds of invalidity of the testament asserted, and must be urged immediately after the objector has had an opportunity to examine the purported testament.

Art. 2882. Proceedings at probate hearing

At the probate hearing the court shall open the testament, if it is enclosed in a sealed envelope, receive proof of the making of the testament as provided in Articles 2883 through 2889, may read the testament to those present, and shall paraph the top and bottom of each page of the testament by inscribing it "ne varietur" over the judicial signature.

Amended by Acts 1968 No. 130, §1.

Art. 2883. Olographic testament

A. The olographic testament must be proved by the testimony of two credible witnesses that the testament was entirely written, dated, and signed in the testator's handwriting. The court must satisfy itself, through interrogation or from the written affidavits or the depositions of the witnesses, that the handwriting and signature are those of the testator, and except as provided in Article 2890, must mention these facts in its proces verbal.

B. A person's testimony for the purpose of this Article may be given in the form of an affidavit executed after the death of the testator stating that the olographic will was entirely written, dated, and signed in the testator's handwriting, unless the court in its discretion requires the person to appear and testify orally. All affidavits accepted by the court in lieu of oral testimony shall be filed in the probate proceedings. This Paragraph does not apply to testimony with respect to the genuineness of a will that is judicially attacked.

Acts 1983, No. 594, §1. Acts 1984, No. 393, §1; Acts 1999, No. 85, §1.

Art. 2884. Nuncupative testament by private act

A. Except as provided in Article 2886, the nuncupative testament by private act must be proved by the testimony of at least three of the competent witnesses present when it was made. These witnesses must testify, in substance:

(1) That they recognize the testament presented to them as being the same that was written in their presence by the testator, or by another person at his direction, or which the testator had written or caused to be written out of their presence and which he declared to them contained his testament; and

(2) That they recognize their signatures and that of the testator, if they signed it, or the signature of him who signed for them, respectively, if they did not know how to sign their names.

B. A person's testimony for the purpose of this Article may be given in the form of an affidavit executed after the death of the testator, unless the court in its discretion requires the person to appear and testify orally. All affidavits accepted by the court in lieu of oral testimony shall be filed in the probate proceedings. This Paragraph does not apply to testimony with respect to the genuineness of a will that is judicially attacked.

Acts 1987, No. 270, §1; Acts 1999, No. 85, §1.

Art. 2885. Mystic testament

A. Except as provided in Article 2886, the mystic testament must be proved by the testimony of at least three of the witnesses who were present at the act of superscription. These witnesses shall testify, in substance:

(1) That they recognize the sealed envelope presented to them to be the same that the testator delivered to the notary in their presence, declaring to the latter that it contained the testator's testament; and

(2) That they recognize their signatures and that of the notary in the act of superscription, if they signed it, or the signature of the notary and of the person who signed for them, if the witnesses did not know how to sign their names.

B. The notary before whom the act of superscription has been passed may testify as one of the three witnesses required above.

C. A person's testimony for the purpose of this Article may be given in the form of an affidavit executed after the death of the testator, unless the court in its discretion requires the person to appear and testify orally. All affidavits accepted by the court in lieu of oral testimony shall be filed in the probate proceedings. This Paragraph does not apply to testimony with respect to the genuineness of a will that is judicially attacked.
Acts 1987, No. 270, §1; Acts 1999, No. 85, §1.

Art. 2886. Probate of nuncupative testament by private act; mystic testament, when witnesses dead, absent, or incapacitated

A. If some of the witnesses to the nuncupative testament by private act, or to the act of superscription of the mystic testament, are dead, absent from the state, incapacitated, or cannot be located, so that it is not possible to procure the prescribed number of witnesses to prove the testament, it may be proved by the testimony of those witnesses then residing in the state and available.

B. If the notary and all of the subscribing witnesses are dead, absent from the state, incapacitated, or cannot be located, the testament may be proved by the testimony of two credible witnesses who recognize the signature of the testator, or of the notary before whom the act of superscription of the mystic testament was passed, or the signature of two of the witnesses to the nuncupative testament by private act, or to the act of superscription of the mystic testament.

C. A person's testimony for the purpose of this Article may be given in the form of an affidavit executed after the death of the testator, unless the court in its discretion requires the person to appear and testify orally. All affidavits accepted by the court in lieu of oral testimony shall be filed in the probate proceedings. This Paragraph does not apply to testimony with respect to the genuineness of a will that is judicially attacked.
Amended by Acts 1980, No. 106, §2; Acts 1987, No. 270, §1; Acts 1999, No. 85, §1.

Art. 2887. [Repealed]

Art. 2888. Foreign testament

A written testament subscribed by the testator and made in a foreign country, or in another state, or a territory of the United States, in a form not valid in this state, but valid under the law of the place where made, or under the law of the testator's domicile, may be probated in this state by producing the evidence required under the law of the place where made, or under the law of the testator's domicile, respectively.

Art. 2889. Depositions of witnesses

A petitioner for the probate of a testament under the provisions of Articles 2882 through 2888 may obtain leave of court ex parte for the taking of the deposition of any witness whose testimony otherwise would not be available. The provisions of Articles 1426, 1434 through 1436, 1443 through 1446, 1449, 1452, and 1469 through 1471, so far as applicable, shall govern the taking of such deposition.
Acts 1985, No. 26, §1.

Art. 2890. Proces verbal of probate

A. A proces verbal of the hearing shall be prepared, signed by the judge or by the clerk, and by the witnesses who testified at the hearing, which shall be a record of the succession proceeding, and which shall recite or include:

(1) The opening of the testament, and the manner in which proof of its authenticity and validity was submitted;

(2) The names and surnames of the witnesses testifying, either personally or by affidavit or deposition; the substance of the testimony of the witnesses who testify personally at the hearing; and that any affidavits or depositions used are made a part thereof by attachment or by reference;

(3) The paraphing of the testament by the court, as set forth in Article 2882;

(4) An order that the testament be recorded, filed, and executed, if the court finds that it has been proved in accordance with law; or an order refusing to probate the testament, giving the substance of the court's reasons therefor.

B. If written affidavits only are used to prove a will under Articles 2883 through 2887, the proces verbal shall be dispensed with, and the court shall render a written order that the testament be recorded, filed, and executed, if the court finds that it has been proved in accordance with law, or a written order refusing to probate the testament, giving the substance of the court's reasons therefor.

Amended by Acts 1968, No. 130, §1; Acts 1970, No. 475, §1; Acts 1984, No. 393, §1; Acts 1987, No. 270, §1.

Art. 2891. Notarial testament, nuncupative testament by public act, and statutory testament executed without probate

A notarial testament, a nuncupative testament by public act, and a statutory testament do not need to be proved. Upon production of the testament, the court shall order it filed and executed and this order shall have the effect of probate.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 2892. Use of probate testimony in subsequent action

When a testament has been probated in accordance with law, the record of the substance of the testimony of any witness at the hearing, and the deposition of any witness taken under Article 2889, shall be admissible in evidence in any subsequent action in which it is sought to annul the testament, if at the time of trial thereof the witness has died, or for any other reason his testimony cannot be taken again either by subpoenaing him to appear at the trial, or by deposition.

Art. 2893. Period within which will must be probated

No testament shall be admitted to probate unless a petition therefor has been filed in a court of competent jurisdiction within five years after the judicial opening of the succession of the deceased.

Amended by Acts 1981, No. 316, §1; Acts 1986, No. 247, §1.

SECTION 3. CONTRADICTORY PROBATE OF TESTAMENTS

Art. 2901. Contradictory trial required; time to file opposition

If an objection is made to the ex parte probate of a testament, as provided in Article 2881, the testament may be probated only at a contradictory trial of the matter. If only an oral objection is made to the ex parte probate, the court shall allow the opponent a reasonable delay, not exceeding ten days, to file his opposition.

Art. 2902. Opposition to petition for probate

The opposition to the petition for the probate of a testament shall comply with Article 2972, shall allege the grounds of invalidity of the testament relied on by the opponent, and shall be served upon the petitioner for the probate of the testament.

Art. 2903. Proponent bears burden of proof

At the contradictory trial to probate a testament, its proponent bears the burden of proving the authenticity of the testament, and its compliance with all of the formal requirements of law.

Art. 2904. Admissibility of videotape of execution of testament

A. In a contradictory trial to probate a testament under Article 2901 or an action to annul a probated testament under Article 2931, and provided the testator is sworn by a person authorized to take oaths and the oath is recorded on the videotape, the videotape of the execution and reading of the testament by the testator may be admissible as evidence of any of the following:

(1) The proper execution of the testament.

(2) The intentions of the testator.

(3) The mental state or capacity of the testator.

(4) The authenticity of the testament.

(5) Matters that are determined by a court to be relevant to the probate of the testament.

B. For purposes of this Article, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, or by other electronic means together with the associated oral record.

Acts 2005, No. 79, §1.

CHAPTER 4. ANNULMENT OF PROBATED TESTAMENTS

Art. 2931. Annulment of probated testament by direct action; defendants; summary proceeding

A probated testament may be annulled only by a direct action brought in the succession proceeding against the legatees, the residuary heir, if any, and the executor, if he has not been discharged. The action shall be tried as a summary proceeding.

Amended by Acts 1984, No. 90, §2.

Art. 2932. Burden of proof in action to annul

A. The plaintiff in an action to annul a probated testament has the burden of proving the invalidity thereof, unless the action was instituted within three months of the date the testament was probated. In the latter event, the defendants have the burden of proving the authenticity of the testament, and its compliance with all of the formal requirements of the law.

B. In an action to annul a notarial testament, a nuncupative testament by public act, or a statutory testament, however, the plaintiff always has the burden of proving the invalidity of the testament.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 2933. [Repealed]

CHAPTER 5. PAYMENT OF STATE INHERITANCE TAXES

Art. 2951. [Repealed]

Art. 2952. Descriptive list of property, if no inventory

A. If no inventory of the property left by the deceased has been taken, any heir, legatee, or other interested party shall file in the succession proceeding a detailed descriptive list, sworn to and subscribed by him, of all items of property comprising the succession of the deceased, stating the actual cash value of each item at the time of the death of the deceased.

B. The detailed descriptive list shall be sealed upon the request of an heir or legatee.

C. If the detailed descriptive list is sealed, a copy shall be provided to the decedent's universal successors and surviving spouse. Upon motion of any successor, surviving spouse, or creditor of the estate, the court may furnish relevant information contained in the detailed descriptive list regarding assets and liabilities of the estate.

Acts 2020, No. 19, §2.

Art. 2953. [Repealed]

Art. 2954. [Repealed]

CHAPTER 6. GENERAL RULES OF PROCEDURE

Art. 2971. Pleading and service of process

Except as otherwise provided by law, the rules of pleading and service of process applicable in ordinary proceedings shall apply to succession proceedings.

A certified copy of the petition, opposition, contradictory motion, or rule initiating a contradictory succession proceeding shall be served on the adverse party; but citation is necessary only in those cases in which it is specifically required by law.

An opposition may be served upon the adverse party as provided in Article 1313.

Art. 2972. Oppositions

An opposition to the petition, motion, or other application of a party to a succession proceeding for an order or judgment of the court shall be in writing and be filed within the delay allowed. It shall comply with the provisions of Articles 853 through 863; shall state the name,

surname, and domicile of the opponent; shall allege the interest of opponent in filing the opposition, and the grounds for opposing the petition, motion, or other application; and shall conclude with a prayer for appropriate relief.

Art. 2973. Responsive pleadings to opposition

Responsive pleadings to an opposition may be filed as provided in Article 2593.

Art. 2974. Appeals

Appeals from orders or judgments rendered in succession proceedings shall be governed by the rules applicable to appeals in ordinary proceedings, except that an order or judgment confirming, appointing, or removing a succession representative, or granting an interim allowance under Article 3321 shall be executed provisionally, notwithstanding appeal.

The acts of a succession representative shall not be invalidated by the annulment of his appointment on appeal.

TITLE II. ACCEPTANCE OF SUCCESSIONS WITHOUT ADMINISTRATION

CHAPTER 1. INTESTATE SUCCESSION

Art. 3001. Sending into possession without administration when all heirs are competent and accept

A. The heirs of an intestate decedent shall be recognized by the court, and sent into possession of his property without an administration of the succession, on the ex parte petition of all of the heirs, when all of them are competent and accept the succession, and the succession is relatively free of debt. A succession shall be deemed relatively free of debt when its only debts are administration expenses, mortgages not in arrears, and debts of the decedent that are small in comparison with the assets of the succession.

B. The surviving spouse in community of an intestate decedent shall be recognized by the court on ex parte petition as entitled to the possession of an undivided half of the community, and of the other undivided half to the extent that he has the usufruct thereof, without an administration of the succession, when the succession is relatively free of debt, as provided above.

Amended by Acts 1979, No. 711, §3, eff. Jan. 1, 1980; Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3002. Same; petition for possession

The petition of the heirs for possession under Article 3001 shall include allegations as to: the competency of the petitioners; the date of death of the deceased, and all other facts on which the jurisdiction of the court is based; the facts showing that petitioners are the sole heirs of the deceased; and that the succession is relatively free of debt, as provided in Article 3001.

The petition of the surviving spouse in community for possession under Article 3001 shall include all of the above allegations except those relating to heirship; shall allege the facts showing that he is the surviving spouse in community; shall state what property belonged to the community; and if he claims the usufruct of any interest in the community property, shall allege the fact showing that he is entitled thereto.

The allegations of the petition for possession shall be verified by the affidavit of at least one of the petitioners.

Amended by Acts 1979, No. 711, §3, eff. Jan. 1, 1980.

Art. 3003. Same; evidence of allegations of petition for possession

Evidence of the allegations of the petition for possession, under Articles 3002 or 3005, as to the death of the deceased, jurisdiction of the court, marriage of the spouses, and relationship of the petitioners to the deceased, shall be submitted to the court as provided by Articles 2821 through 2823.

Art. 3004. Discretionary power to send heirs and surviving spouse into possession

A. The heirs of an intestate decedent may be recognized by the court, and sent into possession of his property without an administration of his succession when none of the creditors of the succession has demanded its administration, on the ex parte petition of any of the following:

(1) Those of the heirs who are competent, if all of them accept the succession.

(2) The legal representative of the incompetent heirs, if all of the heirs are incompetent and a legal representative has been appointed therefor.

(3) The surviving spouse in community of the decedent, if all of the heirs are incompetent and no legal representative has been appointed for some or all of them.

B. In such cases, the surviving spouse in community of the decedent may be recognized by the court as entitled to the possession of the community property, as provided in Article 3001. Amended by Acts 1961, No. 23, §1; Acts 1997, No. 1421, § eff. July 1, 1999.

Art. 3005. Same; petition for possession; evidence

The petition of the heirs for possession under Article 3004 shall include allegations as to: the competency of the petitioners; the date of death of the intestate, and all other facts on which the jurisdiction of the court is based; and the facts showing that petitioners and the incompetent heirs named in the petition, if any, are the sole heirs of the intestate.

The petition of the surviving spouse in community for possession under Article 3004 shall include all of the pertinent allegations of Article 3002.

The allegation of the petition for possession shall be verified by the affidavit of at least one of the petitioners.

The allegations of the petition for possession shall be proved as provided in Article 3003. Amended by Acts 197 , No. 7 , §3, eff. Jan. 1, 1980.

Art. 3006. Same; when one of competent heirs cannot join in petition for possession

If a competent heir of an intestate resides out of the state and cannot be located, or his whereabouts are unknown, the other competent heirs may be sent into possession of the property without an administration of the succession, as provided herein and in Articles 3004 and 3005.

Upon the filing of the petition for possession, the court shall appoint an attorney at law to represent the absent heir, and shall order him to show cause why the heirs of the intestate should not be recognized, and sent into possession of the property of the intestate without an administration of the succession.

After a hearing on the rule against the attorney for the absentee, if the court concludes that the succession is thoroughly solvent and that there is no necessity for an administration, it may send all the heirs of the intestate, including the absentee, into possession.

Art. 3007. Creditor may demand security when heirs sent into possession

When the heirs of an intestate, or the heirs and the surviving spouse thereof, have been sent into possession of the property of the intestate under Articles 3001 or 3004, any creditor having a

claim against the succession may file in the succession proceeding, within three months of the date of the judgment of possession, a contradictory motion against all parties sent into possession to compel them to furnish security for the payment of his claim.

On the trial of this motion, the court may order the parties sent into possession to furnish such security as it deems necessary to protect the claimant.

Art. 3008. Administration in default of security

If the security required by the court under Article 3007 is not furnished within the delay allowed, on ex parte motion of the creditor, the court shall render a judgment annulling the judgment of possession, directing the cancellation of all inscriptions of the registry thereof, ordering an administration of the succession, and ordering the parties sent into possession to surrender to the administrator to be appointed thereafter all of the property of the deceased which they have received, and which they have not alienated.

Conventional mortgages and other encumbrances placed by the heirs, legatees, or surviving spouse in community on property so surrendered, and recorded prior to the cancellation of the inscription of the registry of the judgment of possession, shall retain their initial force and effect despite the administration of the succession.

CHAPTER 2. TESTATE SUCCESSIONS

Art. 3031. Sending legatees into possession without administration

A. When a testament has been probated or given the effect of probate, and subject to the provisions of Article 3033, the court may send all of the legatees into possession of their respective legacies without an administration of the succession, on the ex parte petition of all of the general and universal legatees, if each of them is either competent or is acting through a qualified legal representative, and each of them accepts the succession, and none of the creditors of the succession has demanded its administration.

B. In such cases, the surviving spouse in community of the testator may be recognized by the court as entitled to the possession of the community property, as provided in Article 3001.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3032. Same; petition for possession; evidence

The petition of the legatees for possession under Article 3031 shall include allegations that all of the petitioners are either competent or are acting through their qualified legal representatives. The person named as executor in the testament shall join in the petition, except as otherwise provided by Article 3033.

The petition of the surviving spouse in community for possession under Article 3031 shall comply with all of the pertinent provisions of Article 3002.

The allegations of the petition for possession shall be verified by the affidavit of at least one of the petitioners.

The allegations of the petition for possession shall be proved as provided in Article 3003.

Amended by Acts 1979, No. 711, §3, eff. Jan. 1, 1980.

Art. 3033. Same; compensation of executor

If the testament is dated prior to January 1, 1961, the person named therein as executor shall be entitled to the full compensation allowed by law for an executor's services in administering a testate succession, even though he may not have been confirmed as executor.

If the testament is dated subsequent to December 31, 1960, the person named therein as executor shall be entitled to reasonable compensation for the services which he has rendered, whether he has been confirmed as executor or not.

Except as provided hereinafter, the legatees may be sent into possession only if the person named in the testament as executor joins in the petition thereof.

If the residuary legatee and the person named in the testament as executor cannot agree upon the compensation due him, or for any other reason he refuses to join in the petition for possession, the residuary legatee may rule him into court to show cause why the compensation due should not be determined judicially, and why the legatees should not be sent into possession of their legacies. The court shall not send the legatees into possession until satisfactory proof has been submitted that the compensation determined to be due the person named in the testament as executor has been paid.

Art. 3034. Creditor may demand security when legatees sent into possession; administration in default of security

When the legatees of a testator, or the legatees and the surviving spouse in community thereof, have been sent into possession of his property under Article 3031, any creditor having a claim against the succession may compel the parties sent into possession to furnish security for the payment of his claim, and may require an administration of the succession in default of such security, as provided by Articles 3007 and 3008.

Art. 3035. Particular legatee may demand security for delivery of legacy; administration in default of security

A particular legatee who has not received his legacy after being sent into possession by judgment may demand that the residuary legatee furnish security for the delivery of his legacy and may require an administration of the succession in default of such security, as provided by Articles 3007 and 3008.

CHAPTER 2. JUDGMENTS OF POSSESSION

Art. 3061. Judgment rendered and signed immediately

A. The court shall render and sign immediately a judgment of possession, if it finds from an examination of the petition for possession, and from the record of the proceeding, that the petitioners are entitled to the relief prayed for.

B. The judgment shall recognize the petitioners as the heirs, legatees, surviving spouse in community, or usufructuary, as the case may be, of the deceased, send the heirs or legatees into possession of the property owned by the deceased at the time of his death, and recognize the surviving spouse in community as entitled to the possession of an undivided one-half of the community property, and of the other undivided one-half to the extent that he has the usufruct thereof. The judgment shall include the last known address of at least one of the heirs or legatees or the surviving spouse, as the case may be, sent into possession of the property of the deceased. The failure to include the address of at least one of the heirs or legatees or the surviving spouse shall not affect the validity of the judgment.

C. A judgment sending one or more petitioners into possession under a testamentary usufruct or trust automatically incorporates all the terms of the testamentary usufruct or trust without the necessity of stating the terms in the judgment.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973; Acts 2001, No. 641, §1; Acts 2006, No. 314, §1; Acts 2010, No. 175, §1; Acts 2010, No. 226, §1.

Art. 3062. Effect of judgment of possession

The judgment of possession rendered in a succession proceeding shall be prima facie evidence of the relationship to the deceased of the parties recognized therein, as heir, legatee, surviving spouse in community, or usufructuary, as the case may be, and of their right to the possession of the estate of the deceased.

TITLE III. ADMINISTRATION OF SUCCESSIONS

CHAPTER 1. QUALIFICATION OF SUCCESSIONREPRESENTATIVES

SECTION 1. EXECUTORS

Art. 3081. Petition for confirmation

After the probate of the testament, or after its production into court as provided by Article 2891 if it is a nuncupative testament by public act, the person named as executor therein may petition the court for confirmation, and for the issuance of letters testamentary. If he files the original petition for the execution of the testament, he may pray therein for the issuance of letters.

Art. 3082. Order of confirmation; letters

Unless the person named in the testament as executor is disqualified on any of the grounds assigned in Article 3097, the court shall render an order upon his petition for confirmation, confirming him as testamentary executor and directing the issuance of letters testamentary to him after he has taken his oath of office and furnished security, if required.

Art. 3083. Appointment of dative testamentary executor

If no executor has been named in the testament, or if the one named is dead, disqualified, or declines the trust, on its own motion or on motion of any interested party, the court shall appoint a dative testamentary executor, in the manner provided for the appointment of an administrator of an intestate succession.

SECTION 2. ADMINISTRATORS

Art. 3091. Petition for notice of application for appointment

An interested person desiring to be notified of the filing of an application for appointment as administrator, at any time after the death of the deceased, may petition the court in which the succession has been opened, or may be opened, for such notice.

A petition for such notice shall comply with Article 3092, shall bear the number and caption of the succession proceeding, and shall be docketed and filed by the clerk in the record thereof.

When a petition for such notice has been filed within ten days of the death of the deceased, or prior to the application for appointment as administrator, the applicant for appointment shall serve the notice prayed for, as provided in Article 3093.

Art. 3092. Form of petition for notice of application for appointment

A petition for notice under Article 3091 shall not be effective unless it is signed by the petitioner or his attorney, and sets forth: (1) the name, surname, and domicile of petitioner; (2) a statement of the interest of the petitioner; (3) the name, surname, and mailing address of the person to whom the requested notice shall be given; and (4) a prayer that the requested notice be given.

Art. 3093. Notice in compliance with petition

When notice has been petitioned for as provided in Article 3091, the applicant for appointment as administrator shall mail or deliver to the person designated to receive such notice a copy of his application for appointment, and shall notify him of the date and hour assigned by the court for a hearing thereon.

Art. 3094. Order on application for appointment

The court shall order the taking of an inventory or the filing of a descriptive list as provided in Article 3136, of the property of the deceased upon the filing of an application for appointment as administrator.

If notice of the application for appointment is required under Articles 3091 through 3093, the court shall assign a date and hour for a hearing on the application, which shall be held not earlier than the eleventh day after the mailing or delivery of such notice. If no such notice is required, and ten days have elapsed since the death of the deceased, the court may appoint the applicant as administrator forthwith, unless he is disqualified under Article 3097.

Art. 3095. Opposition to application for appointment

The opposition to application for appointment as administrator shall be filed prior to the hearing on the application and shall be served on the applicant for appointment. This opposition shall comply with Article 2972, and shall allege the prior right of opponent to the appointment, or the grounds on which it is claimed the applicant is disqualified. If the opposition is based on a prior right to the appointment, the opponent shall pray that he be appointed administrator.

Art. 3096. Appointment when no opposition; appointment after trial of opposition

At the hearing on the application for appointment as administrator, if no opposition thereto has been filed, the court shall appoint the applicant, unless he is disqualified under Article 3097.

If an opposition to the application for appointment has been filed prior to the hearing thereon, the court shall assign the opposition for trial. After this trial, the court shall appoint as administrator the qualified claimant having the highest priority of appointment.

If all of the claimants are disqualified under Article 3097, the court shall appoint a qualified person who is willing to accept the administration of the succession.

Art. 3097. Disqualifications

A. No person may be confirmed as testamentary executor, or appointed dative testamentary executor, provisional administrator, or administrator who is:

(1) Under eighteen years of age;

(2) Interdicted, or who, on contradictory hearing, is proved to be mentally incompetent;

(3) A convicted felon, under the laws of the United States or of any state or territory thereof;

(4) A nonresident of the state who has not appointed a resident agent for the service of process in all actions and proceedings with respect to the succession, and caused such appointment to be filed in the succession proceeding;

(5) A corporation not authorized to perform the duties of the office in this state; or

(6) A person who, on contradictory hearing, is proved to be unfit for appointment because of bad moral character.

B. No person may be appointed dative testamentary executor, provisional administrator, or administrator who is not the surviving spouse, heir, legatee, legal representative of an heir or legatee, or a creditor of the deceased or a creditor of the estate of the deceased, or the nominee of the surviving spouse, heir, legatee, or legal representative of an heir or legatee of the deceased, or a co-owner of immovable property with the deceased.

Amended by Acts 1964, No. 4, §1; Acts 1972, No. 347, §1; Acts 1985, No. 528, §1, eff. July 12, 1985.

Art. 3098. Priority of appointment

A. When the appointment as administrator or dative testamentary executor is claimed by more than one qualified person, except as otherwise provided by law, preference in the appointment shall be given by the court in the following order to:

(1) The best qualified among the surviving spouse, competent heirs or legatees, or the legal representatives of any incompetent heirs or legatees of the deceased.

(2) The best qualified of the nominees of the surviving spouse, of the competent heirs or legatees, or of the legal representatives of any incompetent heirs or legatees of the deceased.

(3) The best qualified of the creditors of the deceased or a creditor of the estate of the deceased, or a co-owner of immovable property with the deceased.

B. "Best qualified", as used in this Article, means the claimant best qualified personally, and by training and experience, to administer the succession.

Acts 1992, No. 778, §1; Acts 1993, No. 29, §1.

SECTION 3. PROVISIONAL ADMINISTRATORS

Art. 3111. Appointment

The court may appoint a provisional administrator of a succession, pending the appointment of an administrator or the confirmation of an executor, when it deems such appointment necessary to preserve, safeguard, and operate the property of the succession. On the application of an interested party, or on its own motion, when such an appointment is deemed necessary, the court may appoint a qualified person as provisional administrator forthwith.

Art. 3112. Security; oath; tenure; rights and duties

A provisional administrator shall furnish security and take the oath of office required by Articles 3152 and 3158, respectively. He shall continue in office until an administrator or executor has been qualified, or until the heirs or legatees have been sent into possession.

Except as otherwise provided by law, a provisional administrator has all of the authority and rights of an administrator, and is subject to the same duties and obligations, in the discharge of his functions of preserving, safeguarding, and operating the property and business of the succession.

Art. 3113. Inventory taken or descriptive list filed when appointment made

When the court appoints a provisional administrator, it shall order the taking of an inventory of the property of the succession as provided in Article 3131 or the filing of a descriptive list of the succession property as provided in Article 3136, unless either has been ordered taken before.

Amended by Acts 1972, No. 665, §1.

SECTION 4. ADMINISTRATORS OF VACANT SUCCESSIONS

Art. 3121. Attorney appointed as administrator of vacant successions; exceptions

When no qualified person has petitioned for appointment as administrator of a vacant succession within three months of the death of the deceased, the court may appoint an attorney at law as administrator thereof and set his compensation. Said attorney shall be selected, on a rotating basis, from a list of attorneys currently practicing in the parish in which the succession is to be opened.

The attorney shall be required to furnish security as required by law. Otherwise, all of the provisions of law relating to the administrator of a succession apply to the attorney when appointed administrator of a vacant succession.

This article does not apply to any parish for which a public administrator has been appointed.

Amended by Acts 1961, No. 23, §1; Acts 1974, No. 530, §1.

Art. 3122. Public administrator as administrator of vacant successions in certain parishes

In parishes for which a public administrator has been appointed, he shall be appointed administrator of all successions of which, under Article 3121, an attorney at law in other parishes may be appointed administrator.

All provisions of law relating to the administrator of a succession apply to the public administrator, except as otherwise provided by R.S. 9:1581 through 9:1589.

Amended by Acts 1961, No. 23, §1; Acts 1974, No. 530, §1.

SECTION 5. INVENTORY OF SUCCESSION PROPERTY

Art. 3131. Notary appointed for inventory in each parish

When the court orders the taking of an inventory of the property of the succession, it shall appoint a notary of each parish in which the deceased left property to take the inventory of such property in that parish.

Art. 3132. Public inventory

The public inventory of the property of a deceased person, or of other estates under the administration of the court, shall be taken by a notary appointed by the court, in the presence of at least two competent witnesses, assisted by two competent appraisers appointed and sworn by the notary. The witnesses and appraisers need not be residents of the parish where the inventory is taken.

The taking of the inventory may be attended by any person interested in the estate to be administered, or by his attorney; and when timely requested to do so, the notary shall give such person, or his attorney, notice by ordinary mail of the time and place thereof.

Art. 3133. Proces verbal of inventory

The public inventory shall be evidenced by the notary's proces verbal of the proceedings, subscribed by him, and signed by the appraisers, witnesses, and other persons who have attended. This proces verbal shall contain:

(1) The names, surnames, domiciles, and qualities of the notary taking the inventory, of the witnesses thereto, of the appraisers who have valued the property, and of any other interested persons who have attended;

(2) The dates when and places where the inventory was taken;

(3) A description of the manner in which the inventory was taken;

(4) An adequate description of each item of property belonging to the estate and found in the parish where the inventory was taken, and the fair market value thereof estimated by the appraisers;

(5) An adequate description of all of the titles, account books, and written evidences of indebtedness due the estate found during the taking of the inventory, and the amounts of the indebtedness, and the name, surname, and address of each debtor, as shown therein;

(6) An adequate description of any property owned in whole or in part by third persons, or claimed by third persons as having been left on loan, deposit, consignment, or otherwise; and

(7) A recapitulation of the aggregate value of all movable property, the aggregate value of all immovable property, and the total value of all property owned by the estate.

Art. 3134. Return of proces verbal of inventory

The notary who took the inventory, or the party at whose instance it was taken, shall make duplicate copies of the proces verbal, the original proces verbal shall be returned into the court which ordered it taken, immediately upon its completion and signing. The duplicate copy shall be certified and filed with the collector of revenue. A certified copy of the proces verbal of any inventory taken in Orleans Parish may be returned in the same manner, and with the same effect as the original.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

Art. 3135. Proces verbal of inventory prima facie proof; traverse

The proces verbal of a public inventory returned into court as provided in Article 3134 shall be accepted as prima facie proof of all matters shown therein, without homologation by the court.

An interested person at any time may traverse the proces verbal of a public inventory by contradictory motion served upon the notary and the person at whose instance the inventory was made.

If a descriptive list is amended or successfully traversed a copy of the amended or traversed proces verbal shall be filed with the Collector of Revenue.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

Art. 3136. Descriptive list of property in lieu of inventory

Whenever an inventory of succession property otherwise would be required by law, the person at whose instance the inventory would be taken may file with the Department of Revenue and in the succession proceeding, in lieu of an inventory complying with articles 3131 through 3135, a detailed, descriptive list of all succession property. This list shall be sworn to and subscribed by the person filing it, shall show the location of all items of succession property, and shall set forth the fair market value of each item thereof at the date of the death of the deceased.

The privilege of filing a descriptive list of succession property, in lieu of an inventory thereof, may be exercised without judicial authority.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

Art. 3137. Descriptive list prima facie correct; amendment; traverse; reduction or increase of security

The descriptive list of succession property authorized by Article 3136 shall be accepted as prima facie proof of all matters shown therein, unless amended or traversed successfully.

The court may amend the descriptive list at any time to correct errors therein, on ex parte motion of the person filing it. Any interested person may traverse the descriptive list at any time, on contradictory motion served on the person filing it. If a descriptive list is amended, or successfully traversed a copy of the amended or traversed descriptive list shall be filed with the Department of Revenue. The court may order the reduction or increase of the security required of a succession representative to conform to the corrected total value of the property of the succession.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

SECTION 6. SECURITY, OATH, AND LETTERS OF

SUCCESSION REPRESENTATIVE

Art. 3151. Security of administrator

Except as otherwise provided by law, the person appointed administrator shall furnish security for the faithful performance of his duties in an amount exceeding by one-fourth the total value of all property of the succession as shown by the inventory or descriptive list.

The court may reduce the amount of this security, on proper showing, whenever it is proved that the security required is substantially in excess of that needed for the protection of the heirs and creditors.

Art. 3152. Security of provisional administrator

The person appointed provisional administrator shall furnish security for the faithful performance of his duties in an amount determined by the court as being adequate for the protection of the heirs, legatees, surviving spouse in community, and creditors of the succession.

Art. 3153. Security of testamentary executor

The person appointed dative testamentary executor shall furnish the same security as is required of the administrator under Article 3151.

The person named by the testator as executor is not required to furnish security, except when required by the testament or as provided in Articles 3154 through 3155.

Art. 3154. Forced heirs and surviving spouse in community may compel executor to furnish security

Forced heirs and the surviving spouse in community of the testator may compel the executor to furnish security by an ex parte verified petition therefor. If the court finds that the petitioner is a forced heir, or the surviving spouse in community, it shall order the executor to furnish security, within ten days of the service of the order, in an amount determined by the court as adequate to protect the interest of the petitioner.

Art. 3154.1.[Repealed]

Art. 3155. Creditor may compel executor to furnish security

A person having a pecuniary claim against a testate succession, whether liquidated or not, or claiming the ownership of specific items of property in the possession of the succession, may compel the executor to furnish security in an amount exceeding by one-fourth the amount of the claim, or the value of the property as shown on the inventory or the descriptive list. His verified petition for security may be presented ex parte to the court, which shall order the executor to furnish such security within ten days of the service of the order upon him.

Art. 3155.1. [Repealed]

Art. 3156. Maximum security of executor

The executor cannot be compelled to furnish security, under the provisions of Articles 3153 through 3155, in an amount in excess of the maximum security required of the administrator under Article 3151.

Art. 3157. Special mortgage in lieu of bond

The person appointed or confirmed as succession representative may give a special mortgage on unencumbered immovable property within the parish where the succession has been opened, in lieu of the security required by Articles 3151 through 3155. The mortgage shall be for the same amount as the security required, and shall be approved by the court before letters may be issued to him.

Art. 3158. Oath of succession representative

Before the person appointed or confirmed as succession representative enters upon the performance of his official duties, he must take an oath to discharge faithfully the duties of his office.

Art. 3159. Issuance of letters to succession representative

After the person appointed or confirmed as succession representative has qualified by furnishing the security required of him by law, and by taking his oath of office, the clerk shall issue to him letters of administration or letters testamentary, as the case may be.

These letters, issued in the name and under the seal of the court, evidence the confirmation or appointment of the succession representative, his qualification, and his compliance with all requirements of law relating thereto.

CHAPTER 2. ATTORNEY FOR ABSENT HEIRS AND LEGATEES

Art. 3171. Appointment

If it appears from the record, or is otherwise proved by an interested party, that an heir of an intestate, or a legatee or presumptive legal heir of a deceased testator, is an absentee, and there is a necessity for such appointment, the court shall appoint an attorney at law to represent the absent heir or legatee.

Art. 3172. Duties

The attorney at law appointed to represent an absent heir or legatee shall:

(1) Make all necessary efforts to determine the identity and address of the absent heir or legatee, and to inform him of the death of the deceased and of his interest in the succession;

(2) Represent the absent heir or legatee in the succession, and defend his interests in all contradictory proceedings brought against him therein; and

(3) Take any conservatory action necessary to protect the interests of the absent heir or legatee, including the filing of all necessary suits.

Art. 3173. Removal; appointment of successor

The attorney at law appointed to represent an absent heir or legatee may be relieved by the court of his trust for any lawful reason, shall be removed by the court for nonperformance of duty, and his office shall terminate when the absent heir or legatee by proper pleading advises the court of his appointment of an attorney in fact, or of the selection of his own counsel.

If the attorney appointed to represent an absent heir or legatee, as provided in Article 3171, is removed, resigns, or dies, the court may appoint another attorney at law to succeed him.

Art. 3174. Compensation

The court may allow the attorney at law appointed to represent an absent heir or legatee, upon the completion of his duties, reasonable compensation for the services rendered, payable out of the share of the absent heir or legatee in the succession.

If the person whom the attorney has been appointed to represent is not entitled to any share in the succession, or such share is insufficient to compensate him adequately for his services, his reasonable compensation shall be taxed as costs of court against the mass of the succession.

Such compensation may be determined judicially by contradictory motion against the absent heir or legatee, if he has appeared through counsel or an attorney in fact, or otherwise against the succession representative.

CHAPTER 3. REVOCATION OF APPOINTMENT, AND REMOVAL OF SUCCESSION REPRESENTATIVE

Art. 3181. Revocation of appointment or confirmation; extension of time to qualify

If a person appointed or confirmed as succession representative fails to qualify for the office within ten days after his appointment or confirmation, on its own motion or on motion of any interested person, the court may revoke the appointment or confirmation, and appoint another qualified person to the office forthwith.

The delay allowed herein for qualification may be extended by the court for good cause shown.

Art. 3182. Removal

The court may remove any succession representative who is or has become disqualified, has become incapable of discharging the duties of his office, has mismanaged the estate, has failed to perform any duty imposed by law or by order of court, has ceased to be a domiciliary of the state without appointing an agent as provided in Article 3097(4), or has failed to give notice of his application for appointment when required under Article 3093.

The court on its own motion may, and on motion of any interested party shall, order the succession representative sought to be removed to show cause why he should not be removed from office. The removal of a succession representative from office does not invalidate any of his official acts performed prior to his removal.

CHAPTER 4. GENERAL FUNCTIONS, POWERS, AND DUTIES OF SUCCESSION REPRESENTATIVE

SECTION 1. GENERAL DISPOSITIONS

Art. 3191. General duties; appointment of agent

A. A succession representative is a fiduciary with respect to the succession, and shall have the duty of collecting, preserving, and managing the property of the succession in accordance with law. He shall act at all times as a prudent administrator, and shall be personally responsible for all damages resulting from his failure so to act.

B. A nonresident succession representative may execute a power of attorney appointing a resident of the state to represent him in all acts of his administration. A resident succession representative who will be absent from the state temporarily similarly may appoint an agent to act

for him during his absence. In either case, the power of attorney appointing the agent shall be filed in the record of the succession proceeding.

C. Subject to any restrictions provided in a valid testament of a decedent or an order of a court of competent jurisdiction, a succession representative shall have the power and authority to take control of, handle, conduct, continue, distribute, or terminate any digital account of the decedent.

D.(1) Except as provided in Subparagraph (2) of this Paragraph and to the extent permitted by federal law, any person that electronically stores, maintains, manages, controls, operates, or administers the digital accounts of a decedent shall transfer, deliver, or provide a succession representative access or possession of any digital account of a decedent within thirty days after receipt of letters testamentary, letters of administration, or letters of independent administration evidencing the appointment of the succession representative.

(2) Notwithstanding any other provision of law to the contrary, R.S. 6:325 or 767 shall control how federally insured financial institutions provide Internet or other electronic access to an authorized succession representative for the administration of a decedent's estate.

E. This Article supersedes any contrary provision in the terms and conditions of any service agreement and a succession representative shall be considered an authorized user with lawful consent of the decedent for purposes of accessing or possessing the decedent's digital accounts.

F. The authority provided in this Article shall be specifically subject to copyright law and shall not increase the scope of the license granted in the terms of service of any digital account. The agent, representative or fiduciary shall be personally responsible for any infringement of third party copyrights that occurs in the transfer or distribution of any digital account or its contents.

G. No cause of action shall lie in any court under the law of this state against any provider of digital account service, including its officers, directors, employees, agents, members, or other specified persons, for any actions taken to disclose or otherwise provide access to the contents of a digital account pursuant to this Article.

H. For purposes of this Article, the term "digital account" shall include any account of the decedent on any social networking Internet website, web log Internet website, microblog service Internet website, short message service Internet website, electronic mail service Internet website, financial account Internet website, or any similar electronic services or records, together with any words, characters, codes, or contractual rights necessary to access such digital assets and any text, images, multimedia information, or other personal property stored by or through such digital account.

Amended by Acts 1964, No. 4, §1; Acts 2014, No. 758, §1.

Art. 3192. Duties and powers of multiple representatives

If there are several succession representatives, all action by them shall be taken jointly, unless:

(1) The testator has provided otherwise; or

(2) The representatives have filed in the record a written authorization to a single representative to act for all.

Art. 3193. Powers of surviving representatives

Every power exercised by joint succession representatives may be exercised by the survivor of them in case of the death or termination of appointment of one or more of them, unless the testator has provided otherwise.

Art. 3194. Contracts between succession representative and succession prohibited; penalties for failure to comply

A succession representative cannot in his personal capacity or as representative of any other person make any contracts with the succession of which he is a representative. He cannot acquire any property of the succession, or interest therein, personally or by means of third persons, except as provided in Article 3195.

All contracts prohibited by this article are voidable and the succession representative shall be liable to the succession for all damages resulting therefrom.

Art. 3195. Contracts between succession representative and succession; exceptions

The provisions of Article 3194 shall not apply when a testament provides otherwise or to a succession representative who is:

(1) The surviving spouse of the deceased;

(2) A partner of the deceased, with respect to the assets and business of the partnership;

(3) A co-owner with the deceased, with respect to the property owned in common;

(4) An heir or legatee of the deceased; or

(5) A mortgage creditor or holder of a vendor's privilege, with respect to property subject to the mortgage or privilege.

Amended by Acts 1961, No. 23, §1.

Art. 3196. Procedural rights of succession representative

In the performance of his duties, a succession representative may exercise all procedural rights available to a litigant.

Art. 3197. Duty to close succession

It shall be the duty of a succession representative to close the succession as soon as advisable.

Art. 3198. Compromise and modification of obligations

A succession representative may:

(1) Effect a compromise of an action or right of action by or against the succession; or

(2) Extend, renew, or in any manner modify the terms of any obligation owed by or to the succession.

Any action taken under this article must be approved by the court after notice as provided by Article 3229.

SECTION 2. COLLECTION OF SUCCESSION PROPERTY

Art. 3211. Duty to take possession; enforcement of claims and obligations

A succession representative shall be deemed to have possession of all property of the succession and shall enforce all obligations in its favor.

SECTION 3. PRESERVATION AND MANAGEMENT

OF SUCCESSION PROPERTY

Art. 3221. Preservation of succession property

A succession representative shall preserve, repair, maintain, and protect the property of the succession.

Art. 3222. Deposit of succession funds; unauthorized withdrawals prohibited; penalty

A succession representative shall deposit all moneys collected by him as soon as received, in a bank account in his official capacity, in a state or national bank in this state, and shall not withdraw the deposits or any part thereof, except in accordance with law.

On failure to comply with the provisions of this article, the court may render a judgment against the succession representative and his surety in solido to the extent of twenty percent interest per annum on the amount not deposited or withdrawn without authority, such sum to be paid to the succession. He may also be adjudged liable for all special damage suffered, and may be dismissed from office.

Art. 3223. Investment of succession funds

When it appears to the best interest of the succession, and subject to the representative's primary duty to preserve the estate for prompt distribution and to the terms of the testament, if any, the court may authorize a succession representative to invest the funds of the succession and make them productive.

Unless the testator has provided otherwise, such investments shall be restricted to the kinds of investments permitted to trustees by the laws of this state.

Art. 3224. Continuation of business

When it appears to the best interest of the succession, and after compliance with Article 3229, the court may authorize a succession representative to continue any business of the deceased for the benefit of the succession, but if the deceased died testate and his succession is solvent, the order of court shall be subject to the provisions of the testament. This order may contain such conditions, restrictions, regulations, and requirements as the court may direct.

Art. 3224.1. Continuation of corporation or partnership in which decedent held a majority interest

A. The succession representative of an estate owning a majority interest in a corporation or partnership shall provide notice as provided in Articles 3272 and 3282 prior to alienating, encumbering, or disposing of any real property of a corporation or partnership in which the decedent held a majority interest at the time of his death. The notification required herein shall be by certified mail to the last known address of the heirs or legatees. The heirs and legatees may waive this notification.

B. Upon motion by an heir or legatee, and contradictory hearing thereon, the court may require that a succession representative of an estate owning a majority interest in a corporation or

partnership seek court approval prior to alienating, encumbering, or disposing of any or all of the real property belonging to the corporation or partnership.
Acts 1992, No. 999, §1.

Art. 3225. Continuation of business; interim order unappealable

When an application to continue business has been filed, the court may issue an interim ex parte order to the succession representative to continue the business immediately until such time as the procedure provided for by Article 3229 may be complied with. The order granted herein shall expire at the end of forty-five days unless extended by the court.

No appeal shall lie from the granting or denial of the interim order.
Amended by Acts 1972, No. 666, §1.

Art. 3226. Lease of succession property

When it appears to the best interest of the succession, the court may authorize a succession representative to grant a lease upon succession property after compliance with Article 3229. No lease may be granted for more than one year, except with the consent of the heirs and interested legatees.

The court may also authorize the granting of mineral leases on succession property after compliance with Article 3229. The leases may be for a period greater than one year as may appear reasonable to the court. A copy of the proposed lease contract shall be attached to the application for the granting of a mineral lease, and the court may require alterations as it deems proper.

The order of the court shall state the minimum bonus, if any, to be received by the executor or administrator of the estate under the lease and the minimum royalty to be reserved to the estate, which in no event shall be less than one-eighth royalty on the gas and such other terms as the court may embody in its order.
Amended by Acts 1974, No. 131, §1.

Art. 3227. Execution of contracts

If a person dies before performing an executory contract evidenced by writing, the court may authorize the succession representative to perform the contract, after compliance with Article 3229.

Art. 3228. Loans to succession representative for specific purposes; authority to encumber succession property as security therefor

When it appears to the best interest of the succession, and after compliance with Article 3229, the court may authorize a succession representative to borrow money for the purposes of preserving the property or the orderly administration of the estate, of paying estate debts, and for expenditures in the regular course of business conducted in accordance with Article 3224. As security for the loans the court may authorize the succession representative to encumber succession property upon the terms and conditions as it may direct.
Acts 1995, No. 203, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999; Acts 2010, No. 175, §1.

Art. 3229. Notice by publication of application for court order; opposition

A. When an application is made for an order under Articles 3198, and 3224 through 3228, notice of the application shall be published once in the parish where the succession proceeding is pending in the manner provided by law. When an application is made for an order under Article

3226 to grant a mineral lease, the notice shall also be published in the parish or parishes in which the affected property is located.

B. A court order shall not be required for the publication of the notice. The notice shall state that the order may be issued after the expiration of seven days from the date of publication and that an opposition may be filed at any time prior to the issuance of the order. If no opposition is filed, the court may grant the authority requested at any time after the expiration of the seven days from the date of publication.

C. An opposition shall be tried as a summary proceeding.

Amended by Acts 1974, No. 131, §2; Acts 1981, No. 317, §1; Acts 1987, No. 269, §1.

CHAPTER 5. ENFORCEMENT OF CLAIMS AGAINST SUCCESSIONS

Art. 3241. Presenting claim against succession

A creditor of a succession under administration may submit his claim to the succession representative for acknowledgment and payment in due course of administration.

Except for the purposes of Article 3245, no particular form is required for the submission of a claim by a creditor of the succession other than that it be in writing.

Art. 3242. Acknowledgment or rejection of claim by representative

The succession representative to whom a claim against the succession has been submitted, within thirty days thereof, shall either acknowledge or reject the claim, in whole or in part. This acknowledgment or express rejection shall be in writing, dated, and signed by the succession representative, who shall notify the claimant of his action. Failure of the succession representative either to acknowledge or reject a claim within thirty days of the date it was submitted to him shall be considered a rejection thereof.

Art. 3243. Effect of acknowledgment of claim by representative

The acknowledgment of a claim by the succession representative, as provided in Article 3242, shall:

(1) Entitle the creditor to have his claim included in the succession representative's petition for authority to pay debts, or in his tableau of distribution, for payment in due course of administration;

(2) Create a prima facie presumption of the validity of the claim, even if it is not included in the succession representative's petition for authority to pay debts, or in his tableau of distribution; and

(3) Suspend the running of prescription against the claim as long as the succession is under administration.

Art. 3244. Effect of inclusion of claim in petition or in tableau of distribution

The inclusion of the claim of a creditor of the succession in the succession representative's petition for authority to pay debts or in his tableau of distribution creates a prima facie presumption of the validity of the claim; and the burden of proving the invalidity thereof shall be upon the person opposing it.

Art. 3245. Submission of formal proof of claim to suspend prescription

A. A creditor may suspend the running of prescription against his claim for up to ten years:

(1) By delivering personally or by certified or registered mail to the succession representative, or his attorney of record, a formal written proof of the claim.

(2) By filing a formal written proof of the claim in the record of the succession proceeding, if the succession has been opened and no person has been appointed or confirmed as succession representative and no judgment of possession has been signed.

(3) By filing a formal written proof of the claim in the mortgage records of the appropriate parish as provided in Article 2811, in the absence of a proceeding to open the succession.

B. Such proof of claim shall be sworn to by the claimant and shall set forth:

(1) The name and address of the creditor;

(2) The amount of the claim, and a short statement of facts on which it is based; and

(3) If the claim is secured, a description of the security and of any property affected thereby.

C. If the claim is based on a written instrument, a copy thereof with all endorsements must be attached to the proof of the claim. The original instrument must be exhibited to the succession representative on demand, unless it is lost or destroyed, in which case its loss or destruction must be stated in the claim.

D. The submission of this formal proof of claim, even though it be rejected subsequently by the succession representative, shall suspend the running of prescription against the claim as long as the succession is under administration or, if the succession has been opened and no person has been appointed or confirmed as succession representative and no judgment of possession has been signed, submission of the formal proof of claim shall suspend the running of prescription against the claim as long as no judgment of possession has been signed. In the absence of a proceeding to open the succession, submission of the formal proof of claim shall suspend the running of prescription against the claim for three years, commencing from the date of submission of the proof of claim.

Acts 1987, No. 693, §1; Acts 1993, No. 481, §1.

Art. 3246. Rejection of claim; prerequisite to judicial enforcement

A creditor of a succession may not sue a succession representative to enforce a claim against the succession until the succession representative has rejected the claim.

If the claim is rejected in whole or in part by the succession representative, the creditor to the extent of the rejection may enforce his claim judicially.

Art. 3247. Execution against succession property prohibited

Execution shall not issue against any property of a succession under administration to enforce a judgment against the succession representative, or one rendered against the deceased prior to his death.

Art. 3248. Enforcement of conventional mortgage or pledge

The provisions of Articles 3246 and 3247 shall not prevent the enforcement of a conventional mortgage on or a pledge of movable or immovable property of the succession in a separate proceeding.

Art. 3249. Succession representative as party defendant

The succession representative shall defend all actions brought against him to enforce claims against the succession, and in doing so may exercise all procedural rights available to a litigant.

CHAPTER 6. ALIENATION OF SUCCESSION PROPERTY

SECTION 1. GENERAL DISPOSITIONS

Art. 3261. Purpose of sale

A succession representative may sell succession property in order to pay debts and legacies, or for any other purpose, when authorized by the court as provided in this Chapter.

Art. 3262. No priority as between movables and immovables

There shall be no priority in the order of sale as between movable and immovable property.

Art. 3263. Terms of sale

Sales of succession property shall be for cash, unless upon the petition of the succession representative the court authorizes a credit sale. When a credit sale is authorized, the order shall specify the terms of the sale and the security.

Art. 3264. Perishable property; crops

Upon the petition of the succession representative as provided in Articles 3263 and 3271, the court may order the immediate sale of perishable property and growing crops either at public auction or private sale, without appraisal, and without advertisement, or with such advertisement as the court may direct.

Art. 3265. Prima facie proof of publication

When a publication of notice is required by this Title, prima facie proof may be made either by an affidavit of publication by the official journal or newspaper which published the notice, reciting the date or dates of publication and the text of the notice, or by the original newspaper tear sheet showing both the text of the notice and the date of publication, accompanied by an affidavit by the moving party or the party's attorney attesting to the publication and its date or dates.
Acts 1993, No. 26, §1, eff. May 18, 1993.

Art. 3266. Issuance of certificate of no opposition

When no opposition has been filed to an application by a succession representative for an order or judgment of the court, pursuant to an Article of this Title, the clerk of court shall issue a certificate that no opposition has been filed. No further proof shall be required.
Acts 1993, No. 27, §1, eff. May 18, 1993.

SECTION 2. PUBLIC SALE

Art. 3271. Petition; order

A succession representative desiring to sell succession property at public auction shall file a petition setting forth a description of the property and the reasons for the sale.

The court shall render an order authorizing the sale at public auction after publication, when it considers the sale to be to the best interests of the succession.

Art. 3272. Publication of notice of sale; place of sale

Notice of the sale 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.

The notice of sale shall be published in the parish where the succession proceeding is pending. When immovable property situated in another parish is to be sold, the notice shall also be published in the parish where the property is situated. When movable property situated in another parish is to be sold, the court may require the notice to be published also in the parish where the property is situated.

The sale shall be conducted in the parish where the succession proceeding is pending, unless the court orders that the sale be conducted in the parish where the property is situated.

Art. 3273. Minimum price; second offering

The property shall not be sold if the price bid by the last and highest bidder is less than two-thirds of the appraised value in the inventory. In that event, on the petition of the succession representative, the court shall order a readvertisement in the same manner as for an original sale, and the same delay must elapse. At the second offering the property shall be sold to the last and highest bidder regardless of the price.

SECTION 3. PRIVATE SALE

Art. 3281. Petition for private sale

A. A succession representative who desires to sell succession property at private sale shall file a petition setting forth a description of the property, the price and conditions of and the reasons for the proposed sale. If an agreement to sell has been executed in accordance with Paragraph B of this Article, a copy of such agreement shall be annexed to the petition.

B. A succession representative may execute, without prior court authority, an agreement to sell succession property at private sale, subject to the suspensive condition that the court approve the proposed sale.

C. The succession representative shall be obligated to file a petition in accordance with Paragraph A of this Article within thirty (30) days of the date of execution of such an agreement to sell.

Amended by Acts 1980, No. 369, §1.

Art. 3282. Publication

Notice of the application for authority to sell succession property at private sale shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. A court order shall not be required for the publication of the notice.

The notice shall be published in the parish in which the succession proceeding is pending. When immovable property situated in another parish is to be sold, the notice shall also be published in the parish in which the property is situated. When movable property situated in another parish is to be sold, the notice may be published also in the parish in which the property is situated, without necessity of a court order for the publication; however, the court may order the notice to be published in the parish where the movable property is situated.

The notice shall state that any opposition to the proposed sale must be filed within seven days from the date of the last publication.

Amended by Acts 1972, No. 626, §1; Acts 1976, No. 364, §1.

Art. 3283. Who may file opposition

An opposition to a proposed private sale of succession property may be filed only by an heir, legatee, or creditor.

Art. 3284. Order; hearing

A. If no opposition has been filed timely and the court considers the sale to be to the best interests of the succession, the court shall render an order authorizing the sale and shall fix the minimum price to be accepted. The price may be fixed exactly as the appraised value, as a fraction of the appraised value, as more than the appraised value, or as not less than the appraised value of the property. If an agreement to sell has been executed as provided in Article 3281 and the price and conditions fixed by the court are the price and conditions set in the agreement, the order of court authorizing the sale under such agreement shall fulfill the suspensive condition of the agreement, which thereafter shall be enforceable by the parties to the agreement.

B. Nothing contained in this Article shall affect the general duties of a succession representative.

C. An opposition shall be tried as a summary proceeding.

D. This Article is remedial and shall be retroactive to January 1, 1961. All sales of succession property on and after January 1, 1961, made in compliance with the provisions of this Article are hereby validated.

Amended by Acts 1968, No. 203, §§1, 2; Acts 1980, No. 369, §1.

Art. 3285. Bonds and stocks

A succession representative may sell bonds and shares of stock at private sale at rates prevailing in the open market, by obtaining a court order authorizing the sale. No advertisement is necessary, and the order authorizing the sale may be rendered upon the filing of the petition.

The endorsement of the succession representative and a certified copy of the court order authorizing the sale shall be sufficient warrant for the transfer.

Art. 3286. Court may authorize listing

A succession representative who desires to list succession property for sale shall file a petition to which shall be annexed the proposed listing agreement, which shall contain a provision that any offer to purchase submitted under such agreement to the succession representative shall be subject to the suspensive condition that the court approve the proposed sale. The court shall render an order, ex parte, authorizing the execution of the listing agreement by the succession representative when it considers such agreement to be in the best interests of the succession.

Added by Acts 1980, No. 369, §2.

Art. 3287. Household goods

A succession representative may sell household goods at prices not less than the appraised value of such goods in the succession inventory or descriptive list by obtaining an order authorizing sales, from time to time, for such prices as the succession representative shall determine. No advertisement shall be necessary, and the order authorizing such sales may be rendered upon the filing of the petition. Household goods shall include furniture, furnishings, appliances, linen, and

clothing. If the succession representative desires to sell household goods for less than the appraised value, advertisement shall be required.
Acts 1985, No. 724, §1.

Art. 3288. Motor vehicles; sale at appraised value

A. A succession representative may sell motor vehicles at prices not less than the appraised value of such motor vehicles in the succession inventory or descriptive list by obtaining an order authorizing sales, from time to time, for such prices as the succession representative shall determine. No advertisement shall be necessary, and the order authorizing such sales may be rendered upon the filing of the petition. If the succession representative desires to sell motor vehicles for less than the appraised value, advertisement shall be required.

B. For purposes of this Article, "motor vehicles" shall include automobiles, two-axle trucks, and motorcycles.
Acts 1986, No. 237, §1.

SECTION 4. EXCHANGE OF SUCCESSION PROPERTY

Art. 3291. Court may authorize exchange

The court may authorize an exchange of succession property, on the petition of the succession representative, for a consideration to be paid in corporate stock or other property, or partly therein and partly in cash, if advantageous to the heirs and legatees and not prejudicial of the rights of the succession creditors.
Amended by Acts 1962, No. 92, §3.

Art. 3292. Petition for authority to exchange

The petition of the succession representative for authority to exchange succession property for other property, or for other property and cash, shall set forth a description of both properties, the petitioner's opinion of the values thereof, the conditions of the exchange, and the reasons why such an exchange would be advantageous to the heirs and legatees, and would not prejudice the rights o succession creditors.

Added by Acts 1962, No. 92, §3.

Art. 3293. Copy of petition for authority to be served on heirs and legatees; exception

A certified copy of the succession representative's petition for authority to exchange succession property shall be served, as provided in Article 1314, on all heirs and legatees of the deceased who have not joined in this petition. The petition need not be served on a legatee who has received all of his legacies as provided in the testament.
Added by Acts 1962, No. 92, §3; Amended by Acts 1988, No. 578, §1.

Art. 3294. Publication of notice; opposition; hearing; order

The provisions of Articles 3282 through 3284 shall apply to the publication of notice of the application for authority to exchange succession property, opposition thereto, and the hearing and order thereon.
Added by Acts 1962, No. 92, §3.

SECTION 5. GIVING IN PAYMENT; PROCEDURE

Art. 3295. Giving in payment of succession property

The executor or administrator may transfer by a giving in payment any succession property in satisfaction of secured or unsecured debts. The property may be taken in indivision by the secured or unsecured creditors, or both.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999; Acts 2003, No. 545, §1.

Art. 3296. Petition

A. To this end, he shall present to the judge a petition setting forth the nature of the property, the amount of the encumbrances if any, and the reasons why he deems it in the best interest of the succession to convey the property in satisfaction of the debt or debts.

B. A copy of the petition shall be served by the executor or administrator on each creditor of the succession who has requested notification, together with a notice requiring that any opposition to the granting of the application be filed within seven days from date of service. Service of the petition as set forth herein may be made by registered or certified mail, return receipt requested.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

Art. 3297. Publication

Notice of the application shall be published in the manner prescribed for judicial advertisements, requiring all whom it may concern, including the heirs, to make opposition, if they have any, to the granting of the application, within seven days from the day whereon the last publication appears.

Amended by Acts 1981, No. 314, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

Art. 3298. Hearing; order

If no opposition should be made within the time, the judge may grant to the administrator or executor the authority applied for, after the debt is proven, but if opposition should be made, he shall hear the matter and determine thereon in a summary manner.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

CHAPTER 7. PAYMENT OF ESTATE DEBTS

Art. 3301. Payment of estate debts; court order

A succession representative may pay an estate debt only with the authorization of the court, except as provided by Articles 3224 and 3302.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3302. Time of payment of estate debts; urgent estate debts

A. Upon the expiration of three months from the death of the decedent, the succession representative shall proceed to pay the estate debts as provided in this Chapter.

B. At any time and without publication the court may authorize the payment of estate debts the payment of which should not be delayed.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3303. Petition for authority; tableau of distribution

A. When a succession representative desires to pay estate debts, he shall file a petition for authority and shall include in or annex to the petition a tableau of distribution listing those estate debts to be paid. A court order shall not be required for the publication of the notice of filing of a tableau of distribution.

B. If the funds in his hands are insufficient to pay all the estate debts in full, the tableau of distribution shall show the total funds available and shall list the proposed payments according to the rank of the privileges and mortgages of the creditors.

Acts 1986, No. 204, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3304. Notice of filing of petition; publication

Notice of the filing of a petition for authority to pay an estate debt shall be published once in the parish where the succession proceeding is pending in the manner provided by law. The notice shall state that the petition can be homologated after the expiration of seven days from the date of publication and that any opposition to the petition must be filed prior to homologation.

Amended by Acts 1980, No. 280, §1; Acts 1989, No. 116, §1; Acts 1990, No. 65, §1, eff. June 27, 1990; Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3305. Petition for notice of filing of tableau of distribution

An interested person may petition the court for notice of the filing of a tableau of distribution.

The petition for such notice shall be signed by the petitioner or by his attorney, and shall set forth: (1) the name, surname, and address of the petitioner; (2) a statement of the interest of petitioner; (3) the name, surname, and office address of the attorney at law licensed to practice law in this state to whom the notice prayed for shall be mailed; and (4) a prayer that petitioner be notified, through his attorney, of the filing of the tableau of distribution.

A copy of this petition shall be served upon the succession representative, as provided in Article 1314.

Art. 3306. Notice of filing of tableau of distribution; effect of failure to serve

When notice has been requested in accordance with Article 3305, the succession representative, without the necessity for a court order thereon, shall send a notice of the filing of a tableau of distribution by mail to the attorney designated by the person praying for notice at the address designated. Proof of mailing is sufficient; no proof of receipt is required.

If no notice of the filing of a tableau of distribution has been mailed when required under this article, a judgment homologating the tableau of distribution shall have no effect against the person praying for such notice.

Amended by Acts 1962, No. 92, §1.

Art. 3307. Homologation; payment

A. An opposition may be filed at any time before homologation, and shall be tried as a summary proceeding. If no opposition has been filed, the succession representative may have the tableau of distribution homologated and the court may grant the authority requested at any time after the expiration of seven days from the date of publication or from the date the notice required by Article 3306 is mailed, whichever is later.

B. If an opposition has been taken under advisement by the court after the trial thereof, notice of the signing of the judgment homologating the tableau of distribution, as originally submitted or as amended by the court, need be mailed by the clerk of court only to counsel for the opponent, or to the opponent if not represented by counsel.

C. After the delay for a suspensive appeal from the judgment of homologation has elapsed, the succession representative shall pay the debts approved by the court.

Amended by Acts 1961, No. 23, §1; Acts 1980, No. 280, §1; Acts 1989, No. 116, §1; Acts 1990, No. 65, §1, eff. June 27, 1990.

Art. 3308. Appeal

Only a suspensive appeal as provided in Article 2123 shall be allowed from a judgment homologating a tableau of distribution. The appeal bond shall comply with Article 2124.

The succession representative shall retain a sum sufficient to pay the amount in dispute on appeal until a definitive judgment is rendered. He shall distribute the remainder among the creditors whose claims have been approved and are not in dispute on appeal.

CHAPTER 8. INTERIM ALLOWANCE TO HEIRS AND LEGATEES

Art. 3321. Interim allowance for maintenance during administration

When a succession is sufficiently solvent, the surviving spouse, heirs, or legatees shall be entitled to a reasonable periodic allowance in money for their maintenance during the period of administration, if the court concludes that such an allowance is necessary, provided the sums so advanced to the spouse, heirs, or legatees are within the amount eventually due them. Such payments shall be charged to the share of the person receiving them.

A surviving spouse, heir, or legatee may compel the payment of an allowance during the administration by contradictory motion against the succession representative.

Notice of the filing of a petition for authority to pay an allowance, or of a contradictory motion to compel the payment of an allowance, shall be published once in the manner provided by law. The notice shall state that any opposition must be filed within ten days from the date of publication.

CHAPTER 9. ACCOUNTING BY SUCCESSION REPRESENTATIVE

Art. 3331. Time for filing account

A succession representative shall file an account annually and at any other time when ordered by the court on its own motion or on the application of any interested person.

Art. 3332. Final account

A. A succession representative may file a final account of his administration at any time after homologation of the final tableau of distribution and the payment of all estate debts and legacies as set forth in the tableau.

B. The court shall order the filing of a final account upon the application of an heir or residuary legatee who has been sent into possession or upon the rendition of a judgment ordering the removal of a succession representative.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3333. Contents of account

An account shall show the money and other property received by and in the possession of the succession representative at the beginning of the period covered by the account, the revenue, other receipts, disbursements, and disposition of property during the period, and the remainder in his possession at the end of the period.

Art. 3334. Failure to file account; penalty

An interested person may proceed by contradictory motion to remove a succession representative who has failed to file an account after being ordered to do so by the court and may obtain the remedies provided by Article 2502.

Art. 3335. Notice to heirs and residuary legatees

A copy of any account filed by a succession representative shall be served upon each heir or residuary legatee, together with a notice that the account may be homologated after the expiration of ten days from the date of service and that any opposition thereto must be filed before homologation.

In the case of any account other than the final account, service on either a resident or nonresident may be made by ordinary mail.

In the case of a final account, service may be made:

(a) In accordance with the provisions of Article 1314; or

(b) By certified or registered mail on either a resident or nonresident. The certificate of the attorney for the succession representative that the notice and final account were mailed to the heir or legatee, together with the return receipt signed by the addressee shall be filed in the succession proceeding prior to homologation of the final account.

Amended by Acts 1966, No. 36, §1.

Art. 3336. Opposition; homologation

An opposition to an account may be filed at any time before homologation. An opposition shall be tried as a summary proceeding.

When no opposition has been filed, or to the extent to which the account is unopposed, the succession representative may have the account homologated at any time after the expiration of ten days from the date of service as provided in Article 3335.

Art. 3337. Effect of homologation

A judgment homologating any account other than a final account shall be prima facie evidence of the correctness of the account.

A judgment homologating a final account has the same effect as a final judgment in an ordinary action.

Art. 3338. Deceased or interdicted succession representative

If a succession representative dies or is interdicted, an account of his administration may be filed by his heirs or by his legal representative; and upon the petition of an interested person the court shall order the filing of such an account.

CHAPTER 10. COMPENSATION OF SUCCESSION REPRESENTATIVE

Art. 3351. Amount of compensation; when due

An executor shall be allowed as compensation for his services such reasonable amount as is provided in the testament in which he is appointed. An administrator for his services in administering a succession shall be allowed such reasonable amount as is provided by the agreement between the administrator and the surviving spouse, and all competent heirs or legatees of the deceased.

In the absence of a provision in the testament or an agreement between the parties, the administrator or executor shall be allowed a sum equal to two and one-half percent of the amount of the inventory as compensation for his services in administering the succession. The court may increase the compensation upon a proper showing that the usual commission is inadequate.

A provisional administrator or an administrator of a vacant succession shall be allowed fair and reasonable compensation by the court for his services.

The compensation of a succession representative shall be due upon the homologation of his final account. The court may allow an administrator or executor an advance upon his compensation at any time during the administration.

Amended by Acts 1982, No. 281, §1.

Art. 3351.1. Amount of compensation; limitation when serving as attorney, corporate officer, or managing partner

A. Unless expressly stated in the testament appointing the succession representative, if the succession representative, in discharging his duties as succession representative, is or becomes an officer of a corporation, in which the majority of outstanding shares were owned by the decedent at the time of his death, or is or becomes the managing partner of a partnership in which the decedent at the time of his death owned a majority interest, the succession representative shall not receive compensation both as a succession representative and as an officer of the corporation, or managing partner of the partnership; however, the compensation of a succession representative shall be reduced by the amount of compensation which he received and which was attributable to the performance of his duties as an officer of the corporation or managing partner of the partnership.

B. Unless expressly stated in the testament appointing the succession representative, if the succession representative serves as an attorney for the succession or for the succession representative, the succession representative shall not receive compensation both as a succession representative and as an attorney for the succession or for the succession representative; however, the compensation of a succession representative shall be reduced by the amount of compensation received and which was attributable to the performance of the duties as attorney for the succession or for the succession representatives.

C. The provisions of Paragraphs A and B of this Article limiting compensation received by a succession representative may be waived upon written approval by the heirs and legatees of the decedent owning a two-thirds interest in the succession.

D. Any compensation paid or due to a succession representative under the provisions of this Article shall not be paid unless approved by the court.

Added by Acts 1988, No. 548, §1; Acts 1992, No. 484, §1.

Art. 3352. More than one succession representative

If there is more than one succession representative, the compensation provided by Article 3351 shall be apportioned among them as the court shall direct.

Art. 3353. Legacy to executor

A testamentary executor who is a legatee shall be entitled to compensation, unless the testament provides to the contrary. If the legacy and the compensation of the executor together exceed the disposable portion, the executor shall receive only the disposable portion.

CHAPTER 11. SENDING HEIRS AND LEGATEES INTO POSSESSION

SECTION 1. INTESTATE SUCCESSION

Art. 3361. After homologation of final tableau of distribution

At any time after the homologation of the final tableau of distribution, an heir of an intestate succession may file a petition to be sent into possession alleging the facts showing that he is an heir. Upon the filing of such a petition, the court shall order the administrator to show cause why the petitioner should not be sent into possession.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3362. Prior to homologation of final tableau of distribution

At any time prior to the homologation of the final tableau of distribution, a majority of the heirs of an intestate decedent whose succession is under administration may be sent into possession of all or part of the property of the succession upon their filing a petition for possession as provided in Articles 3001 through 3008 excluding any provisions of Article 3004 to the contrary, except that the proceeding shall be contradictory with the administrator. Upon the filing of such a petition the court shall order the administrator to show cause why the petitioners should not be sent into possession, and shall order that the petitioners be sent into possession unless the administrator or any heir shows that irreparable injury would result, and upon a showing that adequate assets will be retained in the succession to pay all claims, charges, debts, and obligations of the succession. If a majority of the heirs are sent into possession of a part of the property, the administrator shall continue to administer the remainder.

Acts 1986, No. 209, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

SECTION 2. TESTATE SUCCESSION

Art. 3371. After homologation of final tableau of distribution

A. At any time after the homologation of the final tableau of distribution, a legatee or an heir may file a petition to be sent into possession, alleging the facts showing that he is a legatee or an heir. Upon the filing of such a petition, the court shall order the executor to show cause why the petitioner should not be sent into possession.

B. Evidence of the allegations in the petition for possession showing that the petitioner is a legatee or an heir shall be submitted to the court as provided by Articles 2821 through 2823.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3372. Prior to homologation of final tableau of distribution

At any time prior to the homologation of the final tableau of distribution, the legatees in a testate succession may be sent into possession of all or part of their respective legacies upon filing a petition for possession as provided in Articles 3031 through 3035, except that the proceeding shall be contradictory with the executor. Upon the filing of such a petition, the court shall order the executor to show cause why the legatees should not be sent into possession. If the legatees are sent into possession of a part of their respective legacies, the executor shall continue to administer the remainder.

SECTION 3. JUDGMENT OF POSSESSION

Art. 3381. Judgment of possession

A judgment of possession shall be rendered and signed as provided in Article 3061. The judgment shall be rendered and signed only after a hearing contradictory with the succession representative, unless he joins in the petition, in which event the judgment shall be rendered and signed immediately.

CHAPTER 12. DISCHARGE OF SUCCESSION REPRESENTATIVE

Art. 3391. Discharge of succession representative

After homologation of the final account, or upon proof that the heirs have waived a final account, the succession representative may petition for discharge.

Upon the filing of receipts or other evidence satisfactory to the court, showing that the creditors have been paid and that the balance of the property in the possession of the succession representative has been distributed to the heirs and legatees, the court shall render a judgment discharging the succession representative and cancelling his bond.

Art. 3392. Effect of judgment of discharge

The judgment discharging the succession representative relieves him of further duty, responsibility, and authority as succession representative.

Art. 3393. Reopening of succession

A. After a succession representative has been discharged, if other property of the succession is discovered or for any other proper cause, upon the petition of any interested person, the court, without notice or upon such notice as it may direct, may order that the succession be reopened. The court may reappoint the succession representative or appoint another succession representative. The procedure provided by this Code for an original administration shall apply to the administration of a reopened succession in so far as applicable.

B. After formal or informal acceptance by the heirs or legatees or rendition of a judgment of possession by a court of competent jurisdiction, if other property is discovered, or for any other proper cause, upon the petition of any interested person, the court, without notice or upon such notice as it may direct, may order that the succession be opened or reopened, as the case may be, regardless of whether or not, theretofore, any succession proceedings had been filed in court. The court may appoint or reappoint the succession representative, if any, or may appoint another, or new, succession representative. The procedure provided by this Code, for an original administration, shall apply to the administration of successions formally or informally accepted by heirs or legatees and in successions where a judgment of possession has been rendered, in so far as same is applicable.

C. The reopening of a succession shall in no way adversely affect or cause loss to any bank, savings and loan association or other person, firm or corporation, who has in good faith acted in accordance with any order or judgment of a court of competent jurisdiction in any previous succession proceedings.

Amended by Acts 1970, No. 644, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3394. Refusal or inability to accept funds; deposit in bank

A. When an heir, legatee, or creditor is unwilling or unable to accept and receipt for the amount due him, on contradictory motion against the heir, legatee, or creditor the court may order that the succession representative deposit in a state or national bank or in the registry of the court to the credit of the person entitled thereto the amount due him.

B. A receipt showing the deposit shall be sufficient in the discharge of the succession representative to the same extent as though distribution to the person entitled thereto had been made.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

Art. 3395. Disposition of movables not accepted by heir

If the succession representative has in his possession corporeal movable property the delivery of which an heir, legatee, or creditor is unwilling or unable to accept and receipt for, the succession representative may make such disposition thereof as the court may direct.

CHAPTER 13. INDEPENDENT ADMINISTRATION OF ESTATES

Art. 3396. Definitions

In this Chapter:

(1) "Independent administration" means the administration of an estate in accordance with the provisions of this Chapter.

(2) "Independent administrator" means the succession representative authorized by the court to administer a succession in accordance with the provisions of this Chapter. The term "independent administrator" means and includes "independent executor".

(3) "Independent executor" means and includes an independent administrator.

(4) "Letters of independent administration" means letters testamentary or letters of administration that signify that the administration of a succession by the designated succession representative is authorized pursuant to the provisions of this Chapter. The term "letters of independent administration" includes "letters of independent executorship", and the term "letters of independent executorship" includes "letters of independent administration". Such letters have the same force and effect as letters of administration or letters testamentary in a succession that is administered in accordance with the other provisions of this Book.

Acts 2001, No. 974, §1.

Art. 3396.1. Scope

Upon qualification of a succession representative and compliance with the provisions of this Chapter, the clerk shall issue letters of independent administration or letters of independent executorship, as appropriate, certifying that the independent administrator has been duly qualified.

Acts 2001, No. 974, §1; Acts 2020, No. 107, §1, eff. June 9, 2020.

Art. 3396.2. Provision for independent administration by testator

A. When a testament provides for independent administration of an estate, the court shall enter an appropriate order granting independent administration of the estate.

B. A statement in a testament to the effect that the succession representative may act as an "independent administrator" or "independent executor" is sufficient to constitute authorization for independent administration of an estate.
Acts 2001, No. 974, §1.

Art. 3396.3. Designation of executor but failure to provide for independent administration by testator

When a decedent dies testate and his testament designates an executor, but his testament does not provide for independent administration of the estate as provided in this Chapter, all of the general or universal legatees of the decedent may agree to have an independent administration and in the application for filing for probate of the decedent's testament, or thereafter, collectively designate the person named in the testament to serve as independent executor. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as independent executor.
Acts 2001, No. 974, §1.

Art. 3396.4. Failure to designate an executor

When the decedent dies testate but his testament fails to designate an executor, or the person designated is unwilling or unable to serve, all of the general or universal legatees of the decedent may agree on the advisability of having an independent administration and collectively designate a qualified person to serve as dative independent executor. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as dative independent executor.
Acts 2001, No. 974, §1.

Art. 3396.5. Independent administration when decedent dies intestate

When a decedent dies intestate, all of the intestate successors may agree on the advisability of having an independent administration and collectively designate, in the application for administration of the decedent's estate, or thereafter, a qualified person to serve as independent administrator. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as independent administrator.
Acts 2001, No. 974, §1.

Art. 3396.6. Independent administration when estate is part testate, part intestate

When a decedent dies partially testate and partially intestate, all of the successors whose concurrence is required in Articles 3396.3, 3396.4, and 3396.5 must concur in the request for independent administration of the estate, and in the designation of the person to serve as independent administrator.
Acts 2001, No. 974, §1.

Art. 3396.7. Trusteeships

If a trust is created in the testament or a trustee is a legatee, and if concurrence in having an independent administration is required, the trustee shall be deemed to be the legatee authorized to consent to independent administration on behalf of the trust.
Acts 2001, No. 974, §1.

Art. 3396.8. Usufruct

When the testament creates a usufruct and concurrence in having an independent administration is required, or when the usufruct arises by operation of law, the concurrence of the usufructuary and the naked owner is required.

Acts 2001, No. 974, §1.

Art. 3396.9. Interdict or unemancipated minor

A. If a successor whose concurrence is required is an unemancipated minor, the concurrence may be made on his behalf by the administrator of his estate or his natural tutor, as appropriate, without the need for a formal tutorship proceeding or concurrence of an undertutor.

B. If a successor whose concurrence is required is an interdict, the concurrence may be made on his behalf by the curator without the need for court authorization in the interdiction proceeding or concurrence of the undercurator.

Acts 2001, No. 974, §1; Acts 2016, No. 86, §2.

Art. 3396.10. Survivorship

If the testament contains a provision that a legatee must survive the decedent by a prescribed period of time in order to take under the testament, the legatee living at the time of filing of the application for independent administration shall be the legatee authorized to consent to independent administration.

Acts 2001, No. 974, §1.

Art. 3396.11. Possibility of renunciation

A. The subsequent renunciation of an heir or legatee who has consented to an independent administration shall have no effect on the validity of the independent administration, and the consent of those persons who receive an interest in the succession by reason of the renunciation is not required.

B. A successor who concurs in the application for independent administration of an estate shall not be considered, for that reason, as having formally or informally accepted the succession.

Acts 2001, No. 974, §1.

Art. 3396.13. Testamentary prohibition of independent administration

A testator may expressly provide that no independent administration of his estate may be allowed. In such case, his estate, if administered, shall be administered in accordance with the other provisions of Book VI.

Acts 2001, No. 974, §1.

Art. 3396.14. Security of independent administrator

Except where the testament provides otherwise, an independent administrator shall not be required to provide security for the administration of the estate. If an interested person, such as an heir, legatee, or creditor of the estate requests security, then upon application by such party, and after a contradictory hearing, the court may order the independent administrator to furnish security as the court determines to be adequate.

Acts 2001, No. 974, §1.

Art. 3396.15. Rights, powers, and duties; performance without court authority

Except as expressly provided otherwise in this Chapter, an independent administrator shall have all the rights, powers, authorities, privileges, and duties of a succession representative provided in Chapters 4 through 12 of this Title, but without the necessity of delay for objection, or application to, or any action in or by, the court.

Acts 2001, No. 974, §1.

Art. 3396.16. Enforcement of claims against estate

Any person having a claim against the estate may enforce the payment or performance of the claim against an independent administrator in the same manner and to the same extent provided for the assertion of such rights in this Code.

Acts 2001, No. 974, §1.

Art. 3396.17. Accounting

An independent administrator is not required to file an interim accounting. Nevertheless, any person interested in the estate may demand an annual accounting from the independent administrator as provided in Article 3331. Further, the court on application of any interested person may require an independent administrator to furnish accountings at more frequent intervals.

Acts 2001, No. 974, §1.

Art. 3396.18. Inventory or sworn descriptive list

A. Before the succession can be closed, a judgment of possession rendered, and the independent administrator discharged, there shall be filed an inventory or sworn detailed descriptive list of assets and liabilities of the estate verified by the independent administrator.

B. The detailed descriptive list shall be sealed upon the request of an independent administrator, heir, or legatee.

C. If the detailed descriptive list is sealed, a copy shall be provided to the decedent's universal successors and surviving spouse. Upon motion of any successor, surviving spouse, or creditor of the estate, the court may furnish relevant information contained in the detailed descriptive list regarding assets and liabilities of the estate.

Acts 2001, No. 974, §1; Acts 2015, No. 175, §1; Acts 2017, No. 198, §1; Acts 2020, No. 19, §2.

Art. 3396.19. Final account

Unless the heirs and legatees waive a final accounting, the independent administrator shall file a final account with the court. After homologation of that account, the court shall enter an order discharging the succession representative. The final account shall be served in accordance with Chapter 9 of Title III of Book VI.

Acts 2001, No. 974, §1.

Art. 3396.20. Removal of succession representative and termination of independent administration

The court on motion of any interested person, after a contradictory hearing, may remove an independent administrator for any of the reasons provided in Book VI for which a succession representative may be removed from office. In addition, the court on motion of any interested person, after a contradictory hearing, may for good cause order that the letters of independent

administration be withdrawn and that the succession thereafter be administered under the procedures set forth elsewhere in Book VI, other than those contained in this Chapter.
Acts 2001, No. 974, §1.

TITLE IV. ANCILLARY PROBATE PROCEDURE

Art. 3401. Jurisdiction; procedure

When a nonresident dies leaving property situated in this state, a succession proceeding may be instituted in a court of competent jurisdiction in accordance with Article 2811.

Except as otherwise provided in this Title, the procedure in such a succession shall be the same as provided by law for the succession of a Louisiana domiciliary.

Art. 3402. Foreign representative; qualification

A succession representative appointed by a court outside Louisiana may act with respect to property situated in Louisiana only after qualifying in a court of competent jurisdiction in Louisiana. He shall furnish bond upon the application of any interested person for good cause shown in the same amount as an administrator, even though in the case of a testamentary succession the testament dispenses with bond.

After such qualification the succession representative may exercise all of the rights and privileges of and has the same obligation as a succession representative originally qualified in Louisiana.

Art. 3403. Capacity to sue

Except as otherwise provided by law, a succession representative appointed by a court outside Louisiana has no capacity to appear in court on behalf of the succession without first qualifying in a court of competent jurisdiction in Louisiana.

Art. 3404. Priority in appointment

When a succession representative has been appointed by a court of the decedent's domicile outside Louisiana, priority shall be given to him in the appointment of a representative in Louisiana, unless he is disqualified under Article 3097. Otherwise, priority shall be given in the appointment of a representative as provided in Article 3098.

Art. 3405. Testament probated outside Louisiana

A testament admitted to probate outside Louisiana shall be governed by the provisions of R.S. 9:2421 through 9:2425.

TITLE V. SMALL SUCCESSIONS

CHAPTER 1. GENERAL DISPOSITIONS

Art. 3421. Small successions defined

A. A small succession, within the meaning of this Title, is the succession or the ancillary succession of a person who at any time has died and the decedent's property in Louisiana has a gross value of one hundred twenty-five thousand dollars or less valued as of the date of death or, if the date of death occurred at least twenty years prior to the date of filing of a small succession affidavit as authorized in this Title, leaving property in Louisiana of any value.

B. A small succession shall also include a succession of a person who has died testate, leaving no immovable property, and probate of the testament of the deceased would have the same effect as if the deceased had died intestate.

Amended by Acts 1976, No. 187, §1, eff. Jan. 1, 1977; Acts 1979, No. 71, §1, eff. Jan. 1, 1980; Acts 1980, No. 582, §1; Acts 2009, No. 81, §1, eff. June 18, 2009; Acts 2011, No. 323, §1, eff. June 29, 2011; Acts 2012, No. 618, §1, eff. June 7, 2012; Acts 2017, No. 96, §1; Acts 2020, No. 173, §1.

Art. 3422. Court costs; compensation

In judicial proceedings under this Title, the following schedule of costs, compensation, and fees shall prevail:

(1) Court costs for successions valued less than one hundred twenty-five thousand dollars shall be one-half the court costs in similar proceedings in larger successions, but the minimum costs in any case shall be five dollars; and

(2) The compensation of the succession representative shall be not more than five percent of the gross assets of the succession.

Acts 2017, No. 96, §1; Acts 2018, No. [illegible], §1.

Art. 3422.1. Small succession immovable property damaged by disaster or catastrophe

A. The provisions of this Article shall apply to immovable property, subject to a small succession proceeding, that is damaged by a disaster or catastrophe for which a declaration of emergency or federal declaration of disaster or emergency was issued.

B. In the absence of a written agreement between co-owners for the use and management of such immovable recorded in the mortgage records for the parish in which the immovable is situated, any public entity or agent of such entity may conclusively presume that a co-owner in possession of the immovable for more than one year has been appointed by all co-owners to manage, administer, repair, reconstruct, and restore the immovable, and to receive, disburse and account for funds given to him by the public entity solely for the purposes of such repair, reconstruction, and restoration.

C. The power of the managing co-owner shall include the power to execute mortgages to secure funds not exceeding the amount necessary to repair, reconstruct, and restore the immovable, and also to encumber the immovable with such restrictions as may be required by the public entity, without the need to obtain the concurrence of all co-owners.

D. Possession of the immovable by the managing co-owner shall continue during any period the managing co-owner has been forced to leave the immovable due to fire, hurricane, flood, or other disaster or catastrophe.

E. The management of the immovable by the co-owner shall be subject to the laws of negotiorum gestio and mandate applicable to co-owners. However, the provisions of this Article shall control to the extent of any conflict.

F. It is the intent of the legislature that the provisions of this Article be liberally construed to allow the maximum possible repair, reconstruction, and restoration of immovable property in this state, subject to a small succession proceeding, that has been damaged by disaster or catastrophe.

G. Repealed by Acts 2012, No. 618, §2, eff. June 7, 2012.

Acts 2011, No. 323, §1, eff. June 29, 2011; Acts 2012, No. 618, §2, eff. June 7, 2012.

CHAPTER 2. WHEN JUDICIAL PROCEEDINGS UNNECESSARY

Art. 3431. Small successions; judicial opening unnecessary

A. It shall not be necessary to open judicially the small succession of a person domiciled in Louisiana who died intestate or testate as provided by Article 3421(3), or domiciled outside of Louisiana who died intestate or whose testament has been probated by court order of another state, and whose sole heirs are the following:

(1) His descendants.

(2) His ascendants.

(3) His brothers or sisters, or descendants thereof.

(4) His surviving spouse.

(5) His legatees under a testament.

B. Any person appointed as public administrator by the governor may use the affidavit procedure of this Chapter to take possession of the estate of the deceased for transmittal to the state provided there is no surviving spouse or other heir present or represented in the state, and provided he has advertised one time in the official journal of the parish where a succession would have been opened under Article 2811 and verifies that he has received no notice of opposition.

C. The legal notice required in Paragraph B of this Article shall read as follows:

"Notice is hereby given to any heirs or creditors of _____ that _____, Public Administrator for the parish of _____, intends to administer the intestate succession of _____, under the provisions of Small Successions as set forth in Chapter 2 of Title V of Book VI of the Code of Civil Procedure.

Anyone having an objection to such administration of the succession should notify _____ at _____."

D. Repealed by Acts 2011, No. 323, §2, eff. June 29, 2011.

Amended by Acts 1984, No. 623, §1, eff. July 12, 1984; Acts 1990, No. 701, §1; Acts 1995, No. 111, §1; Acts 2006, No. 257, §1, eff. June 8, 2006; Acts 2009, No. 81, §1, eff. June 18, 2009; Acts 2011, No. 323, §§1, 2, eff. June 29, 2011; Acts 2012, No. 618, §1, eff. June 7, 2012; Acts 2020, No. 173, §1.

Art. 3432. Affidavit for small succession; contents

A. When it is not necessary under the provisions of Article 3431 to open judicially a small succession, at least two persons, including the surviving spouse, if any, and one or more competent major heirs of the deceased, may execute one or more multiple originals of an affidavit, duly sworn

before any officer or person authorized to administer oaths in the place where the affidavit is executed, setting forth:

(1) The date of death of the deceased, and his domicile at the time thereof;

(2) The fact that the deceased died intestate;

(3) The marital status of the deceased, the location of the last residence of the deceased, and the name of the surviving spouse, if any, and the surviving spouse's address, domicile, and location of last residence;

(4) The names and last known addresses of the heirs of the deceased, their relationship to the deceased, and the statement that an heir not signing the affidavit (a) cannot be located after the exercise of reasonable diligence, or (b) was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object;

(5) A description of the property left by the deceased, including whether the property is community or separate, and which in the case of immovable property must be sufficient to identify the property for purposes of transfer;

(6) A showing of the value of each item of property, and the aggregate value of all such property, at the time of the death of the deceased;

(7) A statement describing the respective interests in the property which each heir has inherited and whether a legal usufruct of the surviving spouse attaches to the property;

(8) An affirmation that, by signing the affidavit, the affiant, if an heir, has accepted the succession of the deceased; and

(9) An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct, and complete to the best of their knowledge, information, and belief.

B. If the deceased had no surviving spouse, the affidavit must be signed by at least two heirs. If the deceased had no surviving spouse and only one heir, the affidavit must also be signed by a second person who has actual knowledge of the matters stated therein.

C. In addition to the powers of a natural tutor otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061.

Amended by Acts 1977, No. 52, §1; Acts 2009, No. 81, §1, eff. June 18, 2009; Acts 2011, No. 323, §1, eff. June 29, 2011; Acts 2012, No. 618, §§1, 2, eff. June 7, 2012.

Art. 3432.1. Affidavit for small succession for a person who died testate; contents

A. When it is not necessary under the provisions of Article 3431 to open judicially a small succession, at least two persons, including the surviving spouse, if any, and one or more competent legatees of the deceased, may execute one or more multiple originals of an affidavit, duly sworn before any officer or person authorized to administer oaths in the place where the affidavit is executed, setting forth all of the following:

(1) The date of death of the deceased, and his domicile at the time thereof.

(2) The fact that the deceased died testate.

(3) The marital status of the deceased, the location of the last residence of the deceased, and the name of the surviving spouse, if any, and the surviving spouse's address, domicile, and location of last residence, together with the names and last known addresses of the legal heirs of the deceased, and identifying those of the legal heirs who are also forced heirs of the deceased.

(4) The names and last known addresses of the legatees of the deceased, and the statement that a legatee not signing the affidavit was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object.

(5) A description of the property left by the deceased, including whether the property is community or separate, and which, in the case of immovable property, must be sufficient to identify the property for purposes of transfer.

(6) A showing of the value of each item of property subject to the jurisdiction of the courts of Louisiana, and the aggregate value of all such property, at the time of the death of the deceased.

(7) A statement describing the respective interests in the property which each legatee has inherited and whether a legal usufruct of the surviving spouse attaches to the property.

(8) An attachment consisting of certified copies of the testament and, if the testament has been probated by court order of another state, the probate order of the other state.

(9) An affirmation that, by signing the affidavit, the affiant, if a legatee, has accepted the legacy of the deceased.

(10) An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct, and complete to the best of their knowledge, information, and belief.

B. If the deceased had no surviving spouse, the affidavit must be signed by at least two persons who have actual knowledge of the matters stated therein.

C. In addition to the powers of a natural tutor otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061.

Acts 2012, No. 618, §1, eff. June 7, 2012; Acts 2020, No. 173, §1.

Art. 3433. [Repealed]

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. For recordation purposes, a photocopy of the certified death certificate may serve as, and take the place of, the certified copy of the death certificate.

(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; Acts 2022, No. 44, §1.

CHAPTER 3. JUDICIAL PROCEEDINGS

Art. 3441. Acceptance without administration; procedure

Except as otherwise provided by law, all of the rules applicable to the judicial opening of a succession, and its acceptance by the heirs or legatees without an administration, apply to the small succession.

Art. 3442. Administration of successions; procedure

Except as otherwise provided by law, all of the rules applicable to the judicial opening of a succession, its administration, and sending the heirs or legatees into possession on its termination apply to the small succession.

Art. 3443. Sale of succession property; publication of notice of sale

Notice of the private sale of property, movable or immovable, by the succession representative of a small succession shall be published once and only in the parish where the succession is pending, and the property shall be sold not less than ten days nor more than fifteen days after publication.

Notice of the application of the succession representative of a small succession to sell succession property, movable or immovable, at private sale shall be published once and only in the parish where the succession proceeding is pending, and shall state that any opposition to the proposed sale must be filed within ten days of the date of publication.

TITLE VI. PARTITION OF SUCCESSIONS

Art. 3461. Venue; procedure

The petition for the partition of a succession shall be filed in the succession proceeding, as provided in Article 81(2).

In all other respects and except when manifestly inapplicable, the procedure for partitioning a succession is governed by the provisions of Articles 4601 through 4614.

Art. 3462. Partition of succession property

When a succession has been opened judicially, the coheirs and legatees of the deceased cannot petition for a partition of the succession property unless they could at that time be sent into possession of the succession under Articles 3001, 3004, 3006, 3061, 3361, 3362, 3371, 3372, or 3381.

BOOK VII. SPECIAL PROCEEDINGS

TITLE I. PROVISIONAL REMEDIES

CHAPTER 1. ATTACHMENT AND SEQUESTRATION

SECTION 1. GENERAL DISPOSITIONS

Art. 3501. Petition; affidavit; security

A writ of attachment or of sequestration shall issue only when the nature of the claim and the amount thereof, if any, and the grounds relied upon for the issuance of the writ clearly appear from specific facts shown by the petition verified by, or by the separate affidavit of, the petitioner, his counsel or agent.

The applicant shall furnish security as required by law for the payment of the damages the defendant may sustain when the writ is obtained wrongfully.

Art. 3502. Issuance of writ before petition filed

A writ of attachment or of sequestration may issue before the petition is filed, if the plaintiff obtains leave of court and furnishes the affidavit and security provided in Article 3501. In such a case the petition shall be filed on the first judicial day after the issuance of the writ of attachment or of sequestration, unless for good cause shown the court grants a longer delay.

Art. 3503. Garnishment under writs of attachment or of sequestration

Except as otherwise provided by law and in the second paragraph of this article, garnishment under a writ of attachment or of sequestration is governed by the rules applicable to garnishment under a writ of fieri facias.

In garnishment under a writ of sequestration the only property that can be seized is property the ownership or possession of which is claimed by the plaintiff or on which he claims a privilege.

Art. 3504. Return of sheriff; inventory

The sheriff, after executing a writ of attachment or of sequestration, shall deliver to the clerk of the court from which the writ issued a written return stating the manner in which he executed the writ. He shall annex to the return an inventory of the property seized.

Art. 3505. Reduction of excessive seizure

If the value of the property seized under a writ of attachment or of sequestration exceeds what is reasonably necessary to satisfy the plaintiff's claim, the defendant by contradictory motion may obtain the release of the excess.

Art. 3506. Dissolution of writ; damages

The defendant by contradictory motion may obtain the dissolution of a writ of attachment or of sequestration, unless the plaintiff proves the grounds upon which the writ was issued. If the writ of attachment or of sequestration is dissolved, the action shall then proceed as if no writ had been issued.

The court may allow damages for the wrongful issuance of a writ of attachment or of sequestration on a motion to dissolve, or on a reconventional demand. Attorney's fees for the services rendered in connection with the dissolution of the writ may be included as an element of damages whether the writ is dissolved on motion or after trial on the merits.

Art. 3507. Release of property by defendant; security

A defendant may obtain the release of the property seized under a writ of attachment or of sequestration by furnishing security for the satisfaction of any judgment which may be rendered against him.

Art. 3507.1. Release of property by plaintiff; security

Property seized under a writ of attachment or of sequestration may be released to the plaintiff upon proof of his ownership and upon furnishing security as required by Article 3508. All costs incurred as a result of the seizure shall be paid by the plaintiff prior to the release of the property. A written agreement to hold the seizing authority harmless for wrongful seizure of property which is not seized to enforce a security interest, mortgage, lien or privilege may be substituted in lieu of security at the discretion of the sheriff.

Acts 1985, No. 593, §1; Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

Art. 3508. Amount of security for release of attached or sequestered property

The security for the release of property seized under a writ of attachment or of sequestration shall exceed by one-fourth the value of the property as determined by the court, or shall exceed by one-fourth the amount of the claim, whichever is the lesser.

Art. 3509. Release of property by third person

When property seized under a writ of attachment or of sequestration is in the possession of one not a party to the action, he may intervene in the action and, upon prima facie showing that he is the owner, pledgee, or consignee of the property, have the property released by furnishing security in the manner and amount, within the same delay, and with the same effect as a defendant.

Art. 3510. Necessity for judgment and execution

Except as provided in Article 3513, a final judgment must be obtained in an action where a writ of attachment or of sequestration has issued before the property seized can be sold to satisfy the claim.

Art. 3511. Attachment and sequestration; privilege

To the extent not otherwise provided under Chapter 9 of the Louisiana Commercial Laws (R.S. 10:9-101, et seq.), a creditor who seizes property under a writ of attachment or of sequestration acquires a privilege from the time of seizure if judgment is rendered maintaining the attachment or sequestration.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

Art. 3512. Release of plaintiff's security

The security required of the plaintiff for the issuance of a writ of attachment or of sequestration shall be released when judgment is rendered in his favor and is affirmed on appeal or when no appeal has been taken and the delay for appeal has elapsed.

Art. 3513. Sale of perishable property

Perishable property seized under a writ of attachment or of sequestration may be sold as provided in Article 2333. The proceeds of such a sale shall be held by the sheriff subject to the orders of the court.

Nothing contained herein shall be construed to prohibit the release of such property upon furnishing of security.

Art. 3514. Release not to affect right to damages

The release of property upon furnishing security under Articles 3507, 3509, or 3576 shall not preclude a party from asserting the invalidity of the seizure, or impair his right to damages because of a wrongful seizure.

SECTION 2. ATTACHMENT

Art. 3541. Grounds for attachment

A writ of attachment may be obtained when the defendant:

(1) Has concealed himself to avoid service of citation;

(2) Has granted a security interest under Chapter 9 of the Louisiana Commercial Laws (R.S. 10:9-101, et seq.), or has mortgaged, assigned, or disposed of his property or some part thereof, or is about to do any of these acts, with intent to defraud his creditors or give an unfair preference to one or more of them;

(3) Has converted or is about to convert his property into money or evidences of debt, with intent to place it beyond the reach of his creditors;

(4) Has left the state permanently, or is about to do so before a judgment can be obtained and executed against him;

(5) Is a nonresident who has no duly appointed agent for service of process within the state.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

Art. 3542. Actions in which attachment can issue

A writ of attachment may be obtained in any action for a money judgment, whether against a resident or a nonresident, regardless of the nature, character, or origin of the claim, whether it is for a certain or uncertain amount, and whether it is liquidated or unliquidated.

Art. 3543. Issuance of a writ of attachment before debt due

A writ of attachment may be obtained before the debt sued upon is due. If the debt is paid when it becomes due, the costs of the seizure shall be paid by the plaintiff.

Art. 3544. Plaintiff's security

The security required for the issuance of a writ of attachment shall be for the amount of the plaintiff's demand, exclusive of interest and costs. If the writ is obtained on the sole ground that the defendant is a nonresident, the security shall not exceed two hundred fifty dollars, but on proper showing the court may increase the security to any amount not exceeding the amount of the demand.

Art. 3545. Nonresident attachment; venue

An action in which a writ of attachment is sought on the sole ground that the defendant is a nonresident may be brought in any parish where the property to be attached is situated.

SECTION 3. SEQUESTRATION

Art. 3571. Grounds for sequestration

When one claims the ownership or right to possession of property, or a mortgage, security interest, lien, or privilege thereon, he may have the property seized under a writ of sequestration, if it is within the power of the defendant to conceal, dispose of, or waste the property or the revenues therefrom, or remove the property from the parish, during the pendency of the action. Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

Art. 3572. Sequestration before rent due

A sequestration based upon a lessor's privilege may be obtained before the rent is due, if the lessor has good reason to believe that the lessee will remove the property subject to the lessor's privilege. If the rent is paid when it becomes due, the costs shall be paid by the plaintiff.

Art. 3573. Sequestration by court on its own motion

The court on its own motion may order the sequestration of property the ownership of which is in dispute without requiring security when one of the parties does not appear to have a better right to possession than the other.

Art. 3574. Plaintiff's security

An applicant for a writ of sequestration shall furnish security for an amount determined by the court to be sufficient to protect the defendant against any damage resulting from a wrongful issuance, unless security is dispensed with by law.

Art. 3575. Lessor's privilege

A writ of sequestration to enforce a lessor's privilege shall issue without the furnishing of security.

Art. 3576. Release of property under sequestration

If the defendant does not effect the release of property seized under a writ of sequestration, as permitted by Article 3507, within ten days of the seizure, the plaintiff may effect the release thereof by furnishing the security required by Article 3508.

Art. 3601. Injunction, grounds for issuance; preliminary injunction; temporary restraining order

A. An injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant, or in other cases specifically provided by law; provided, however, that no court shall have jurisdiction to issue, or cause to be issued, any temporary restraining order, preliminary injunction, or permanent injunction against any state department, board, or agency, or any officer, administrator, or head thereof, or any officer of the state of Louisiana in any suit involving the expenditure of public funds under any statute or law of this state to compel the expenditure of state funds when the director of such department, board, or agency or the governor shall certify that the expenditure of such funds would have the effect of creating a deficit in the funds of said agency or be in violation of the requirements placed upon the expenditure of such funds by the legislature.

B. 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.

C. During the pendency of an action for an injunction the court may issue a temporary restraining order, a preliminary injunction, or both, except in cases where prohibited, in accordance with the provisions of this Chapter.

D. Except as otherwise provided by law, an application for injunctive relief shall be by petition.

E. The irreparable injury, loss, or damage enumerated in Paragraph A of this Article may result from the isolation of an individual over the age of eighteen years by any other individual, curator, or mandatary, including but not limited to violations of Civil Code Article 2995 or Code of Civil Procedure Article 4566(J).

Amended by Acts 1969, No. 334, §2; Acts 2004, No. 765, §1, eff. July 6, 2004; Acts 2016, No. 110, §2, eff. May 19, 2016.

Art. 3602. Preliminary injunction; notice; hearing

A preliminary injunction shall not issue unless notice is given to the adverse party and an opportunity had for a hearing.

An application for a preliminary injunction shall be assigned for hearing not less than two nor more than ten days after service of the notice.

Art. 3603. Temporary restraining order; affidavit 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. 3604. Form, contents, and duration of restraining order

A. A temporary restraining order shall be endorsed with the date and hour of issuance; shall be filed in the clerk's office and entered of record; shall state why the order was granted without notice and hearing; and shall expire by its terms within such time after entry, not to exceed ten days, as the court prescribes. A restraining order, for good cause shown, and at any time before

its expiration, may be extended by the court for one or more periods not exceeding ten days each. The party against whom the order is directed may consent that it be extended for a longer period. The reasons for each extension shall be entered of record.

B. Nevertheless, in a suit for divorce, a temporary restraining order issued in conjunction with a rule to show cause for a preliminary injunction shall remain in force until a hearing is held on the rule for the preliminary injunction prohibiting a spouse from:

(1) Disposing of or encumbering community property;

(2) Harming the other spouse or a child; or

(3) Removing a child from the jurisdiction of the court.

C.(1) A temporary restraining order issued in conjunction with a rule to show cause for a protective order filed in an action pursuant to the Protection from Family Violence Act, R.S. 46:2121 et seq., and pursuant to the Protection From Dating Violence Act, R.S. 46:2151, shall remain in force until a hearing is held on the rule for the protective order or for thirty days, whichever occurs first. If the initial rule to show cause is heard by a hearing officer, the temporary restraining order shall remain in force for fifteen days after the hearing or until the judge signs the protective order, whichever occurs last. At any time before the expiration of a temporary restraining order issued pursuant to this Paragraph, it may be extended by the court for a period not exceeding thirty days.

(2) In the event that the hearing on the rule for the protective order is continued by the court because of a declared state of emergency made in accordance with R.S. 29:724, any temporary restraining order issued in the matter shall remain in force for five days after the date of conclusion of the state of emergency. When a temporary restraining order remains in force under this Paragraph, the court shall reassign the rule for a protective order for hearing at the earliest possible time, but no later than five days after the date of conclusion of the state of emergency. The reassignment of the rule shall take precedence over all matters except older matters of the same character.

D. To be effective against a federally insured financial institution, a temporary retraining order or preliminary injunction issued in accordance with Subparagraph (B)(1) of this Article shall be served in accordance with the provisions of R.S. 6:285(C). A temporary restraining order or preliminary injunction granted pursuant to the provisions of this Article shall be effective only against accounts, safe deposit boxes, or other assets listed or held in the name of the following:

(1) One or both of the spouses named in the injunction.

(2) Another party or business entity specifically named in the injunction.

E. A federally insured financial institution shall not be liable for loss or damages resulting from its actions to comply with a temporary restraining order or preliminary injunction provided that the requirements of this Article have been met.

Acts 1983, No. 651, §1; Acts 1990, No. 361, §1, eff. Jan. 1, 1991; Acts 1999, No. 1336, §2; Acts 2003, No. 750, §1; Acts 2012, No. 582, §2; Acts 2014, No. 618, §1.

Art. 3605. Content and scope of injunction or restraining order

An order granting either a preliminary or a final injunction or a temporary restraining order shall describe in reasonable detail, and not by mere reference to the petition or other documents, the act or acts sought to be restrained. The order shall be effective against the parties restrained, their officers, agents, employees, and counsel, and those persons in active concert or participation with them, from the time they receive actual knowledge of the order by personal service or otherwise.

Art. 3606. Temporary restraining order; hearing on preliminary injunction

A. When a temporary restraining order is granted, the application for a preliminary injunction shall be assigned for hearing at the earliest possible time, subject to Article 3602, and shall take precedence over all matters except older matters of the same character. The party who obtains a temporary restraining order shall proceed with the application for a preliminary injunction when it comes on for hearing. Upon his failure to do so, the court shall dissolve the temporary restraining order.

B. In the event that the hearing on the issuance of a preliminary injunction is continued by the court because of a declared state of emergency made in accordance with R.S. 29:724, any temporary restraining order issued in the matter shall remain in force for five days after the conclusion of the state of emergency. When a temporary restraining order remains in force under this Paragraph, the court shall reassign the application for a preliminary injunction for hearing at the earliest possible time, but no later than five days after the conclusion of the state of emergency. The reassignment of the application shall take precedence over all matters except older matters of the same character.

Acts 2014, No. 618, §1.

Art. 3607. Dissolution or modification of temporary restraining order or preliminary injunction

An interested person may move for the dissolution or modification of a temporary restraining order or preliminary injunction, upon two days' notice to the adverse party, or such shorter notice as the court may prescribe. The court shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

The court, on its own motion and upon notice to all parties and after hearing, may dissolve or modify a temporary restraining order or preliminary injunction.

Art. 3607.1. Registry of temporary restraining order, preliminary injunction, or permanent injunction

A. Immediately upon rendering a decision granting the petitioner a temporary restraining order or a preliminary or permanent injunction prohibiting a person from harming a family or household member or dating partner, or directing a person accused of stalking to refrain from abusing, harassing, or interfering with the victim of the stalking when the parties are strangers or acquaintances, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

B. When a temporary restraining order, preliminary injunction, or permanent injunction relative to domestic abuse or dating violence or relative to stalking as provided for in Paragraph A of this Article, is issued, dissolved, or modified, the clerk of court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed

with the clerk of court. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.
Added by Acts 1997, No. 1156, §2; Acts 2003, No. 750, §1; Acts 2014, No. 317, §5; Acts 2014, No. 355, §1.

Art. 3608. Damages for wrongful issuance of temporary restraining order or preliminary injunction

The court may allow damages for the wrongful issuance of a temporary restraining order or preliminary injunction on a motion to dissolve or on a reconventional demand. Attorney's fees for the services rendered in connection with the dissolution of a restraining order or preliminary injunction may be included as an element of damages whether the restraining order or preliminary injunction is dissolved on motion or after trial on the merits.

Art. 3609. Proof at hearings; affidavits

The court may hear an application for a preliminary injunction or for the dissolution or modification of a temporary restraining order or a preliminary injunction upon the verified pleadings or supporting affidavits, or may take proof as in ordinary cases. If the application is to be heard upon affidavits, the court shall so order in writing, and a copy of the order shall be served upon the defendant at the time the notice of hearing is served.

At least twenty-four hours before the hearing, or such shorter time as the court may order, the applicant shall deliver copies of his supporting affidavits to the adverse party, who shall deliver to the applicant prior to the hearing copies of affidavits intended to be used by such adverse party. The court, in its discretion, and upon such conditions as it may prescribe, may permit additional affidavits to be filed at or after the hearing, and may further regulate the proceeding as justice may require.

Art. 3610. Security for temporary restraining order or preliminary injunction

A temporary restraining order or preliminary injunction shall not issue unless the applicant furnishes security in the amount fixed by the court, except where security is dispensed with by law. The security shall indemnify the person wrongfully restrained or enjoined for the payment of costs incurred and damages sustained. However, no security is required when the applicant for a temporary restraining order or preliminary or permanent injunction is seeking protection from domestic abuse, dating violence, stalking, or sexual assault.

Acts 2003, No. 750, §1.

Art. 3611. Penalty for disobedience; damages

Disobedience of or resistance to a temporary restraining order or preliminary or final injunction is punishable as a contempt of court. The court may cause to be undone or destroyed whatever may be done in violation of an injunction, and the person aggrieved thereby may recover the damages sustained as a result of the violation.

Art. 3612. Appeals

A. There shall be no appeal from an order relating to a temporary restraining order.

BOOK VIII. TRIAL COURTS OF LIMITED JURISDICTION

TITLE I. GENERAL DISPOSITIONS

CHAPTER 1. APPLICABILITY: COURTS OF LIMITED JURISDICTION

Art. 4831. Applicability of Book VIII

The provisions of this Book apply only to suits in trial courts of limited jurisdiction and to suits in the district courts within their jurisdiction concurrent with that of justices of the peace. Except as otherwise provided in this Book, civil proceedings in a trial court of limited jurisdiction, and the enforcement of judgments rendered therein, shall be governed as far as practicable by the other provisions of this Code.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980.

Art. 4832. Trial courts of limited jurisdiction

Trial courts of limited jurisdiction are parish courts, city courts, and justice of the peace courts.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980.

CHAPTER 2. CIVIL JURISDICTION

SECTION 1. PARISH COURTS AND CITY COURTS

Art. 4841. Subject matter jurisdiction

A. The subject matter jurisdiction of parish courts and city courts is limited by the amount in dispute and by the nature of the proceeding, as provided in this Chapter.

B. For the purposes of this Chapter, the amount in dispute is determined by the amount demanded, including damages pursuant to Civil Code Articles 2315.3 and 2315.4, or value asserted in good faith by the plaintiff, but does not include interest, court costs, attorney fees, or penalties, whether provided by agreement or by law.

C. If the demand asserted in an amended or supplemental pleading exceeds the jurisdiction of the court, the court shall transfer the action to a court of proper jurisdiction.

Acts 1986, No. 156, §1; Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1995, No. 409, §1; Acts 2012, No. 502, §2.

Art. 4842. Parish court jurisdiction; amount in dispute; injunctive actions by a political subdivision

A. Except as otherwise provided by law, the civil jurisdiction of a parish court 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.

B. The civil jurisdiction of a parish court 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 any parish or municipal ordinance or any state law. In such case, the court shall have jurisdiction irrespective of the amount in dispute or the value of the property involved.
Acts 1986, No. 152, §2, eff. June 28, 1986; Acts 1986, No. 1038, §1; Acts 1987, No. 448, §2, eff. July 9, 1987; Acts 1992, No. 939, §1; Acts 1995, No. 204, §1.

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 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 Oberlin 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 Houma, the City Court of Jeanerette, the City Court of Jennings, the City Court of Monroe, the City Court of New Iberia, 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 201[illegible] 843, §1; Acts 2015, No. 367, §1; Acts 2015, No. 461, §1, eff. July 1, 2015; Acts 2019, N[illegible] §1; Acts 2020, No. 205, §3, eff. June 11, 2020; Acts 2021, No. 251, §1; Acts 2022, [illegible] 98, §1.

Art. 4844. Amount in dispute; eviction proceedings

A. Except as otherwise provided in this Article, a parish court or city court shall have jurisdiction, concurrent with the district court, over suits by owners and landlords for the possession of leased premises as follows:

(1) When the lease is by the day and the daily rental is one hundred fifty dollars or less.

(2) When the lease is by the week and the weekly rental is five hundred dollars or less.

(3) When the lease is by the month and the monthly rental is three thousand dollars or less.

(4) When the lease is by the year and the annual rental is thirty-six thousand dollars or less.

(5) When the suit is to evict an occupant as defined by Article 4704, if the annual value of the right of occupancy does not exceed the amount in dispute to which the jurisdiction of the court is limited by Articles 4842 and 4843 or as to the amounts set forth in Subparagraphs (3) and (4) of this Paragraph.

B. In the City Court of East St. Tammany, the city court shall have the same jurisdictional limit for possession of leased premises in eviction proceedings as provided for in Article 4912 for justice of the peace courts.

C. In the City Court of Hammond, the city court shall have jurisdiction over suits by owners and landlords for the possession of leased premises when the lease is by the month and the monthly rental is five thousand dollars or less.

D. In computing the jurisdictional amount for purposes of eviction suits, the daily, weekly, monthly, annual, or other rental provided by the lease, exclusive of interest, penalties, or attorney fees, shall determine the amount in dispute.

Acts 1986, No. 156, §1; Acts 1995, No. 204, §1; Acts 1999, No. 102, §1; Acts 2010, No. 219, §1; Acts 2020, No. 205, §3, eff. June 11, 2020; Acts 2022, No. 361, §1.

Art. 4845. Amount in dispute; jurisdiction of incidental demands; parish, city, and justice of the peace courts; payment of costs of transfer

A.(1) When a parish or city court has subject matter jurisdiction over the principal demand, it may exercise subject matter jurisdiction over any properly instituted incidental action arising out of the same transaction or occurrence from which the principal demand arose, regardless of the amount in dispute in the incidental demand. When a justice of the peace court has jurisdiction over the principal demand, it may exercise subject matter jurisdiction over a good faith incidental demand in the same manner as a parish or city court, except that if the amount in dispute of such incidental demand exceeds its jurisdictional amount, a justice of the peace court may not continue to exercise jurisdiction except for purposes of transferring the entire action as provided in this Section.

(2) When an otherwise properly instituted incidental demand exceeds the subject matter jurisdiction of a parish or city court, the court may transfer the entire action to a court of proper jurisdiction.

B. When a compulsory reconventional demand exceeds the jurisdiction of a parish or city court, and when any good faith incidental demand before a justice of the peace court exceeds the jurisdictional amount of the justice of a peace court, the court shall transfer the entire action to a court of proper jurisdiction. The party filing the incidental demand that causes the justice of the peace court to transfer the action shall be responsible for payment of all costs for the transfer and shall make payment of the costs directly to the clerk of court of the transferee court within fifteen days of the filing of the incidental demand in the justice of the peace court.

Acts 1986, No. 156, §1; Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1991, No. 676, §1; Acts 1995, No. 202, §1; Acts 1999, No. 678, §1.

Art. 4846. Limitations upon jurisdiction; nature of proceedings

In addition to the limitation by the amount in dispute as set forth above, the jurisdiction of parish courts and city courts is limited by the nature of the proceeding, as set forth in Article 4847.

Acts 1986, No. 156, §1.

Art. 4847. Limitations upon jurisdiction

A. Except as otherwise provided by law, a parish court or city 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, divorce, separation of property, or alimony.

(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, except for a petition for nullity filed in the City Court of East St. Tammany to nullify a judgment of bond forfeiture rendered by the City Court of East St. Tammany.

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

B. In addition, city courts shall not have jurisdiction in tutorship, curatorship, emancipation, and partition proceedings.
Acts 1986, No. 156, §1; Acts 1986, No. 152, §2, eff. June 28, 1986; Acts 1988, No. 670, §1; Acts 1990, No. 361, §1, eff. Jan. 1, 1991; Acts 2011, No. 228, §1; Acts 2020, No. 205, §3, eff. June 11, 2020.
{{NOTE: SEE ACTS 1986, NO. 152, §3.}}

Art. 4848. Contempt power

A city court and parish court have the same power to punish a contempt of court as a district court.
Acts 1986, No. 156, §1.

Art. 4849. Jurisdiction over the person

A parish court or a city court may exercise jurisdiction over the person to the same extent, and in the same manner, as a district court.
Acts 1986, No. 156, §1.

Art. 4850. Jurisdiction in rem or quasi in rem; executory proceedings

A. A parish court or a city court may exercise jurisdiction quasi in rem over movable or immovable property, or jurisdiction in rem over movable property, in the manner provided by law, if the property is situated within the territorial jurisdiction of the court.

B. A parish court or a city court may issue a writ of seizure and sale in an executory proceeding to enforce a privilege or mortgage on movable or immovable property.
Acts 1986, No. 156, §1.

Art. 4850.1. City Court of Alexandria; in rem and quasi in rem jurisdiction

The City Court of Alexandria may exercise jurisdiction quasi in rem over movable or immovable property, or jurisdiction in rem over movable property, in the manner provided by law, if the property is situated within the territorial jurisdiction of the court and the value of the property and the amount in dispute does not exceed ten thousand dollars. The City Court of Alexandria may issue a writ of seizure and sale in an executory proceeding to enforce a privilege or mortgage on movable or immovable property if the value of the property and the amount in dispute does not exceed ten thousand dollars.
Acts 2003, No. 905, §1.

Art. 4850.2. First City Court and Second City Court of New Orleans; appellate jurisdiction

The First City Court and the Second City Court shall have jurisdiction over appeals by any person aggrieved by a decision of the Traffic Court of New Orleans concerning a traffic violation enforced by the city of New Orleans' automated traffic enforcement system. Appeals from the traffic court shall extend to the law and the facts and shall be tried upon the records made and the evidence offered in court by the judge to whom the appeal shall be allotted. Any aggrieved person shall file such appeal within thirty days of such decision. The First City Court and the Second City Court shall adopt rules regulating the manner of taking, hearing, and deciding such appeals. All traffic violations on appeal shall maintain their status as civil penalties.

Acts 2012, No. 502, §1.

Art. 4851. Venue

A. The rules of venue provided in Articles 41 through 45, 71 through 79 and 81, and 121 through 124 apply to suits brought in the parish court.

B. The rules of venue provided in Articles 41 through 45, 71 through 79 and 121 through 124 apply to suits brought in city court, except that where these articles use the word "parish" it shall be construed to mean the territorial jurisdiction of the city court.

Acts 1986, No. 156, §1.

Art. 4852. Change of venue; city court; forum non conveniens

If a party has filed separate suits in a city court and a district court which has territorial jurisdiction over the city court relating to the same cause of action but placing a claim for property damage in one court and a claim for personal injury in the other court, the city court upon contradictory motion, or upon the court's own motion, after contradictory hearing may transfer the suit in its court to the district court if the transfer serves the convenience of the parties and the witnesses and is in the interest of justice.

Acts 1986, No. 156, §1.

Art. 4853. [Repealed]

Art. 4854. [Repealed]

SECTION 2. MUNICIPAL AND TRAFFIC COURTS

Art. 4857. Traffic Court of New Orleans; appellate jurisdiction

The Traffic Court of New Orleans shall have exclusive appellate jurisdiction of all appeals by any person aggrieved by an administrative hearing officer's decision concerning a traffic violation enforced by the city of New Orleans' automated traffic enforcement system. Any aggrieved person shall file such appeal within thirty days after the date of such decision. The traffic court shall have de novo review over such appeals. The traffic court shall adopt rules regulating the manner of taking, hearing, and deciding such appeals. All traffic violations on appeal shall maintain their status as civil penalties.

Acts 2012, No. 502, §1.

CHAPTER 3. RECUSATION 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

A. When a written motion is made to recuse a judge of a parish or city court or a justice of the peace, not later than seven days after the judge or justice of the peace receives the motion from the clerk of court, 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.

B. If the motion to recuse fails to set forth a ground for recusal under Article 151, the judge or justice of the peace may deny the motion without the appointment of another judge or a hearing but shall provide written reasons for the denial.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980; Acts 2021, No. 143, §1; Acts 2022, No 38, §1.

Art. 4863. Determination of recusation; 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 the 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. 4871. Jury trial prohibited

There shall be no trial by jury in any case in a parish court, city court, or justice of the peace court.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980.

Art. 4872. Transfer to district court

A. Where a principal demand is commenced in a parish or city court in which the defendant would otherwise be entitled to trial by jury under the provisions of Article 1731, or under any other provision of law, the defendant may obtain trial by jury by transferring the action to the district court in the manner provided by Article 4873.

B. Where a principal demand commenced in a parish or city court is one in which the defendant was not entitled to trial by jury under the provisions of Article 1731, a party who files an incidental demand in that court as authorized by Article 4846 waives any right he may have to jury trial on such incidental demand.

Acts 1979, No. 46, §1, eff. Jan. 1, 1980.

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.

BOOK IX. MISCELLANEOUS PROVISIONS AND DEFINITIONS

TITLE I. MISCELLANEOUS PROVISIONS

CHAPTER 1. RULES OF CONSTRUCTION

Art. 5051. Liberal construction of articles

The articles of this Code are to be construed liberally, and with due regard for the fact that rules of procedure implement the substantive law and are not an end in themselves.

Art. 5052. Unambiguous language not to be disregarded

When the language of an article is clear and free from ambiguity, its letter is not to be disregarded under the pretext of pursuing its spirit.

Art. 5053. Words and phrases

Words and phrases are to be read in their context, and are to be construed according to the common and approved usage of the language employed.

The word "shall" is mandatory, and the word "may" is permissive.

Art. 5054. Clerical and typographical errors disregarded

Clerical and typographical errors in this Code shall be disregarded when the legislative intent is clear.

Art. 5055. Number; gender

Unless the context clearly indicates otherwise:

(1) Words used in the singular number apply also to the plural; words used in the plural number include the singular; and

(2) Words used in one gender apply also to the others.

Art. 5056. Conjunctive, disjunctive, or both

Unless the context clearly indicates otherwise:

(1) The word "and" indicates the conjunctive;

(2) The word "or" indicates the disjunctive; and

(3) When the article is phrased in the disjunctive, followed by the words "or both", both the conjunctive and disjunctive are intended.

Art. 5057. Headings, source notes, cross references

The headings of the articles of this Code, and the source notes and cross references thereunder, are used for purposes of convenient arrangement and reference, and do not constitute parts of the procedural law.

Art. 5058. References to code articles or statutory sections

Unless the context clearly indicates otherwise:

(1) A reference in this Code to a book, title, chapter, section, or article, without further designation, means a book, title, chapter, section, or article of this Code; and

(2) A reference in this Code to an article of a code, or to a statutory section, applies to all prior and subsequent amendments thereof.

Art. 5059. Computation of time

A. In computing a period of time allowed or prescribed by law or by order of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday, in which event the period runs until the end of the next day which is not a legal holiday.

B. A half-holiday is considered as a legal holiday. A legal holiday is to be included in the computation of a period of time allowed or prescribed, except when:

(1) It is expressly excluded;

(2) It would otherwise be the last day of the period; or

(3) The period is less than seven days.

C.(1) A legal holiday shall be excluded in the computation of a period of time allowed or prescribed to seek rehearing, reconsideration, or judicial review or appeal of a decision or order by an agency in the executive branch of state government.

(2) Subparagraph (1) of this Paragraph shall not apply to the computation of a period of time allowed or prescribed to seek rehearing, reconsideration, or judicial review or appeal of a decision or order by the Department of Revenue, the Department of Environmental Quality, or the Department of Insurance relative to examination reports in R.S. 22:1983.

Acts 2018, No. 128, §1; Acts 2019, No. 306, §1.

CHAPTER 2. ATTORNEY APPOINTED TO REPRESENT UNREPRESENTED DEFENDANTS

Art. 5091. Appointment; contradictory proceedings against attorney; improper designation immaterial

A. The court shall appoint an attorney at law to represent the defendant, on the petition or ex parte written motion of the plaintiff, when:

(1) It has jurisdiction over the person or property of the defendant, or over the status involved, and the defendant is:

(a) A nonresident or absentee who has not been served with process, either personally or through an agent for the service of process, and who has not waived objection to jurisdiction.

(b) An unemancipated minor or mental incompetent who has no legal representative, and who may be sued through an attorney at law appointed by the court to represent him.

(c) Deceased and no succession representative has been appointed.

(2) The action of proceeding is in rem and:

(a) The defendant is dead, no succession representative has been appointed, and his heirs and legatees have not been sent into possession judicially.

(b) The defendant is a corporation, a limited liability company, or partnership on which process cannot be served for any reason.

(c) The defendant's property is under the administration of a legal representative, but the latter has died, resigned, or been removed from office and no successor thereof has qualified, or has left the state permanently without appointing someone to represent him.

B. All proceedings against such a defendant shall be conducted contradictorily against the attorney at law appointed by the court to represent him. For the limited purpose of any such action or proceeding, the appointed attorney at law shall be the proper representative of the succession of any such decedent to the same extent as if he were the regularly appointed and duly qualified administrator or executor in such decedent's succession.

C. The improper designation of the attorney appointed by the court to represent such a defendant as curator ad hoc, tutor ad hoc, special tutor, or any other title, does not affect the validity of the proceeding.

D. The improper designation of a defendant for whom an attorney has been appointed by the court in an action or proceeding in rem under Paragraph (A)(2) of this Article shall not affect the validity of the proceedings and any judgment rendered therein shall be binding upon the parties and property involved in the action or proceeding in rem. Therefore, naming an attorney to represent the unopened succession of the defendant, the succession of the defendant, the estate of the defendant, the deceased defendant, or any other similar designation or appellation shall satisfy the requirements of Paragraph (A)(2)(a). The designation of a corporation or a partnership by a name sufficient to identify the same to a reasonably prudent man, regardless of any errors which it might contain, shall satisfy the requirements of Paragraph (A)(2)(b).

Amended by Acts 1964, No. 4, §1; Acts 1991, No. 386, §1, eff. July 6, 1991; Acts 1992, No. 584, §2; Acts 1997, No. 578, §1; Acts 1[illegible] No. 1[illegible]5, §2.

Art. 5091.1. Appointment of attorney in disavowal actions

In any action to disavow paternity, the judge shall appoint an attorney to represent the child whose status is at issue, and the attorney appointed shall not represent any other party in the litigation.

Added by Acts 1976, No. 430, §3.

Art. 5091.2. Curator ad hoc in adoption cases

In complying with the provisions of the Louisiana Children's Code Articles 1011, 1107, or 1190 and related statutes, the judge of the competent court is authorized to appoint an attorney who shall serve as curator ad hoc who will assist the court in complying with the statutory requirements for maintaining the confidentiality of termination, surrender, adoption, and related records and proceedings.

Added by Acts 1978, No. 450, §3; Acts 1997, No. 1056, §1.

Art. 5092. Qualifications; suggestions for appointment not permitted

When the court appoints an attorney at law to represent an unrepresented party, it shall appoint an attorney qualified to practice law in this state.

The court shall not accept any suggestion as to the name of the attorney to be appointed, unless manifestly in the interest of the unrepresented party.

Art. 5093. Oath not required; waiver of citation and acceptance of service

An attorney at law appointed by the court to represent an unrepresented party need not take an oath before entering on the performance of his duties, as his oath of office as an attorney applies to all of his professional duties.

An attorney appointed to represent a defendant may waive citation and accept service of process, but may not waive any defense. No further action may be taken by the court after service or acceptance thereof until after the expiration of the delay allowed the defendant to answer, even though the appointed attorney may have filed an exception or answer prior thereto.

Art. 5094. Duties; notice to nonresident or absentee

When an attorney at law is appointed by the court to represent a defendant who is a nonresident or an absentee, the attorney shall use reasonable diligence to communicate with the defendant and inform him of the pendency and nature of the action or proceeding, and of the time available for the filing of an answer or the assertion of a defense otherwise.

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. 5096. Compensation

The court shall allow the attorney at law appointed to represent a defendant a reasonable fee for his services, which shall be paid by the plaintiff, but shall be taxed as costs of court.

The attorney so appointed may require the plaintiff to furnish security for the costs which may be paid by, and the reasonable fee to be allowed, the attorney.

If the attorney so appointed is retained as counsel for the defendant, the attorney shall immediately advise the court and opposing counsel of such employment.

Art. 5097. Attorney appointed to represent claimant in worker's compensation case

Articles 5092, 5093, and 5098 apply to an attorney at law appointed by the court to represent a claimant in a worker's compensation case who seeks authority to compromise or to accept a lump sum settlement.

Acts 1983, 1st E.S., No. 1, §6.

Art. 5098. Validity of proceeding not affected by failure of attorney to perform duties; punishment of attorney

The failure of an attorney appointed by the court to represent an unrepresented party to perform any duty imposed upon him by, or the violation by any person of, the provisions of Articles 5092 through 5096 shall not affect the validity of any proceeding, trial, order, judgment, seizure, or judicial sale of any property in the action or proceeding, or in connection therewith.

For a wilful violation of any provision of Articles 5092 through 5096 an attorney at law subjects himself to punishment for contempt of court, and such further disciplinary action as is provided by law.

CHAPTER 3. BONDS IN JUDICIAL PROCEEDINGS

Art. 5121. Bond payable to clerk; cash bonds by plaintiffs authorized; person in interest may sue

When a party to a judicial proceeding is required by law or order of court to furnish security, any bond so furnished shall be made payable to the clerk of the trial court in which the proceeding was brought. When the party required to furnish same is a plaintiff, a cash bond may be furnished in lieu of other security, at his option.

Any person in interest may sue thereon. No error, inaccuracy, or omission is naming the obligee on the bond is a defense to an action thereon.

Amended by Acts 1970, No. 492, §1.

Art. 5121.1. Bond secured by immovable property

Any party to a judicial proceeding who is required by law or court order to provide security may furnish as security a bond secured by immovable property located in this state. The party providing the property bond shall present to a judge of the parish in which the immovable is located an assessment certificate, a homestead exemption waiver if applicable, and a mortgage certificate. Prior to presenting the bond to the court having jurisdiction over the judicial proceeding the bond shall be recorded in the mortgage office of the parish where the immovable is located and the recordation shall be evidenced on the mortgage certificate.

Added by Acts 1984, No. 590, §2, eff. June 29, 1984.

Art. 5122. Oath of surety and principal on bond

A. Except as otherwise provided in this Article, no bond shall be accepted in a judicial proceeding unless accompanied by affidavits of:

(1) Each surety that he is worth the amount for which he bound himself therein, in assets subject to execution, over and above all of his other obligations.

(2) The party furnishing the bond that he is informed and believes that each surety on the bond is worth the amount for which the surety has bound himself therein, in assets subject to execution, over and above all of the other obligations of the surety.

(3) The party furnishing a bond secured by immovable property under Article 5121.1 that he is worth the amount for which he has bound himself and that the immovable securing the bond contains assets subject to execution, over and above all his other obligations.

B. This Article does not apply to a bond executed by a surety company licensed to do business in this state.

Amended by Acts 1984, No. 200, §1.

Art. 5123. Testing sufficiency and validity of bond

Any person in interest wishing to test the sufficiency, solvency of the surety, or validity of a bond furnished as security in a judicial proceeding shall rule the party furnishing the bond into the trial court in which the proceeding was brought to show cause why the bond should not be decreed insufficient or invalid, and why the order, judgment, writ, mandate, or process conditioned on the furnishing of security should not be set aside or dissolved. If the bond is sought to be held invalid on the ground of the insolvency of a surety other than a surety company licensed to do business in this state, the party furnishing the bond shall prove the solvency of the surety on the trial of the rule.

Art. 5124. Furnishing new or supplemental bond to correct defects of original

Within four days, exclusive of legal holidays, of the rendition of judgment holding the original bond insufficient or invalid, or at any time if no rule to test the original bond has been filed, the party furnishing it may correct any defects therein by furnishing a new or supplemental bond, with either the same surety if solvent, or a new or additional surety.

The new or supplemental bond is retroactive to the date the original bond was furnished, and maintains in effect the order, judgment, writ, mandate, or process conditioned on the furnishing of security.

The furnishing of a supplemental bond or the furnishing of a new bond by a different surety, does not discharge or release the sureties on the original bond; and the sureties on both are liable in solido to the extent of their respective obligations thereon and may be joined in an action on the bond.

Art. 5125. Insufficiency or invalidity of bond; effect on orders or judgments; appeal from order for supplemental bond

No appeal, order, judgment, writ, mandate, or process conditioned on the furnishing of security may be dismissed, set aside, or dissolved on the ground that the bond furnished is insufficient or invalid unless the party who furnished it is afforded an opportunity to furnish a new or supplemental bond, as provided in Articles 5124 and 5126.

No suspensive appeal is allowed from an order or ruling of a trial court requiring or permitting a new or supplemental bond to be furnished as provided in Articles 5124 and 5126.

Art. 5126. Insufficiency or invalidity of new or supplemental bond

The party furnishing a new or supplemental bond under the provisions of Article 5124 may correct an insufficiency or invalidity therein by furnishing a second new or supplemental bond within four days, exclusive of legal holidays, of rendition of judgment holding the new or supplemental bond insufficient or invalid, or at any time if no rule to test the new or supplemental bond has been filed.

If the second new or supplemental bond is insufficient or invalid, the party furnishing it may not correct the defects therein by furnishing a further new or supplemental bond.

Art. 5127. Release bond

No property seized under any order, judgment, writ, mandate, or process of a court may be released from seizure under a release or forthcoming bond unless it is executed by:

(1) A surety company licensed to do business in this state; or

(2) An individual surety, and has been approved by the sheriff after the latter has satisfied himself of the solvency of the surety.

Articles 5121 through 5126 apply to a release or forthcoming bond.

CHAPTER 4. DISCUSSION

Art. 5151. Discussion defined

Discussion is the right of a secondary obligor to compel the creditor to enforce the obligation against the property of the primary obligor or, if the obligation is a legal or judicial mortgage, against other property affected thereby, before enforcing it against the property of the secondary obligor.

Art. 5152. Surety's right to plead

When a surety is sued by the creditor on the suretyship obligation, and the right of discussion has been created by contract between the surety and the creditor, the surety may plead discussion to compel the creditor to obtain and execute a judgment against the principal before executing a judgment against the surety.

Acts 2010, No. 185, §1.

Art. 5153. Transferee in revocatory action; right to plead discussion

When a revocatory action is brought by a creditor to set aside a transfer of property made by his debtor, the transferee may plead discussion to compel the creditor to obtain and execute a judgment against the debtor before setting the transfer aside.

Art. 5154. Third possessor's right to plead

When a legal or judicial mortgage securing an indebtedness due by a former owner of property is sought to be enforced against the property after its acquisition by a third possessor, the latter may plead discussion to compel the mortgagee to enforce the mortgage against other property affected thereby, which is owned by the mortgagor, or which has been acquired from the mortgagor by a third person after the third possessor acquired his property.

Art. 5155. Pleading discussion

A third possessor may plead discussion in an injunction suit to restrain the enforcement of a legal or judicial mortgage against his property. Discussion may be pleaded by a surety or transferee in a revocatory action only in the dilatory exception.

In pleading discussion, the secondary obligor shall:

(1) Point out by a description sufficient to identify it, property in the state belonging to the primary obligor, or otherwise subject to discussion, which is not in litigation, is not exempt from

seizure, is free of mortgages and privileges, and is worth more than the total amount of the judgment or mortgage; and

(2) Deposit into the registry of the court, for the use of the creditor, an amount sufficient to defray the costs of executing the judgment or enforcing the mortgage against the property discussed.

Art. 5156. Effect of discussion

When discussion is pleaded successfully by a third possessor, or by the transferee in a revocatory action, the court shall stay proceedings against the third possessor or transferee until the creditor has executed his judgment against the property discussed.

When discussion is pleaded successfully by a surety and the principal is joined, the court may render judgment against both the principal and the surety, but shall order the creditor to execute his judgment against the property discussed. If the principal is not joined in the action initially, the court shall order his joinder if he is subject to its jurisdiction, and may then proceed as provided in this paragraph.

If the creditor is not able to satisfy his judgment out of the proceeds of the judicial sale of the property discussed, he may thereafter proceed as if discussion had not been pleaded.

CHAPTER 5. WAIVER OF COSTS FOR INDIGENT PARTY

Art. 5181. Privilege of litigating without prior payment of costs

A. Except as provided in Paragraph B of this Article, an individual who is unable to pay the costs of court because of his poverty and lack of means may prosecute or defend a judicial proceeding in any trial or appellate court without paying the costs in advance or as they accrue or furnishing security thereof.

B. In the event any person seeks to prosecute a suit in a court of this state while incarcerated or imprisoned for the commission of a felony without paying the costs in advance as they accrue or furnishing security thereof, the court shall require such person to advance costs in accordance with the following schedule:

Prisoner's Present Assets		Advance Cost To Be Paid	
Minimum Amount	Maximum Amount	Minimum Amount	Maximum Amount
$0.00	$20.00	$0.00	$3.00
$20.01	$45.00	$3.00	$9.00
$45.01	$65.00	$9.00	$15.00
$65.01	$85.00	$15.00	$21.00
$ 85.01	$105.00	$ 21.00	$ 27.00
$105.01	$125.00	$ 27.00	$ 33.00

$125.01	$145.00	$ 33.00	$ 39.00
$145.01	$165.00	$ 39.00	$ 45.00
$165.01	$185.00	$ 45.00	$ 51.00
$185.01	$205.00	$ 51.00	$ 57.00
$205.01	$225.00	$ 57.00	$ 63.00
$225.01	$245.00	$ 63.00	$ 69.00
$245.01	$265.00	$ 69.00	$ 75.00
$265.01	$285.00	$ 75.00	$ 81.00
$285.01	$305.00	$ 81.00	$ 87.00
$305.01	$325.00	$ 87.00	$ 93.00
$325.01	$345.00	$ 93.00	$ 99.00
$345.01	$365.00	$ 99.00	$105.00
$365.01	Up	$105.00	to all advance cost.

C. The court for good cause shown may require a prisoner to pay more or less advance cost than is required by the schedule in Paragraph B of this Article if the court finds that the prisoner's prior financial record makes reliance on his present economic status inappropriate.
Amended by Acts 1964, No. 336, §1; Acts 1972, No. 662, §1; Acts 1984, No. 509, §1.

Art. 5182. Restrictions on privilege

The privilege granted by this Chapter shall be restricted to litigants who are clearly entitled to it, with due regard to the nature of the proceeding, the court costs which otherwise would have to be paid, and the ability of the litigant to pay them or furnish security therefor, so that the fomentation of litigation by an indiscriminate resort thereto may be discouraged, without depriving a litigant of its benefits if he is entitled thereto.

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. 5184. Traverse of affidavits of poverty

A. An adverse party or the clerk of the court in which the litigation is pending may traverse the facts alleged in the affidavits of poverty, and the right of the applicant to exercise the privilege granted in this Chapter, by a rule against him to show cause why the order of court permitting him to litigate, or to continue the litigation, without paying the costs in advance, or as they accrue, or furnishing security therefor, should not be rescinded. However, only one rule to traverse the affidavit of poverty shall be allowed, whether the rule is filed by an adverse party or the clerk of court.

B. The court shall rescind its order if, on the trial of the rule to traverse, it finds that the litigant is not entitled to exercise the privilege granted in this Chapter.

Acts 1990, No. 179, §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 rendered 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.

Art. 5186. Account and payment of costs

An account shall be kept of all costs incurred by a party who has been permitted to litigate without the payment of costs, by the public officers to whom these costs would be payable. If judgment is rendered in favor of the indigent party, the party against whom the judgment is rendered shall be condemned to pay all costs due such officers, who have a privilege on the judgment superior to the rights of the indigent party or his attorney. If judgment is rendered against the indigent plaintiff and he is condemned to pay court costs, an affidavit of the account by an officer to whom costs are due, recorded in the mortgage records, shall have the effect of a judgment for the payment due.

Amended by Acts 1981, No. 545, §1; Acts 1993, No. 85, §1; Acts 1997, No. 408, §1.

Art. 5187. Compromise; dismissal of proceedings prior to judgment

No compromise shall be effected unless all costs due these officers have been paid. Should any compromise agreement be entered into in violation of this article, each party thereto is liable to these officers for all costs due them at the time.

No judicial proceeding in which a party has been permitted to litigate without the payment of costs shall be dismissed prior to judgment, unless all costs due these public officers have been paid, or there is annexed to the written motion to dismiss the certificates of all counsel of record that no compromise has been effected or is contemplated.

No release of a claim or satisfaction of a judgment shall be effective between the parties to a judicial proceeding in which one of the parties has been permitted to litigate without the payment of costs unless all costs due the clerk of court have been paid. The clerk of court shall have a lien for the payment of such costs superior to that of any other party on any monies or other assets transferred in settlement of such claim or satisfaction of such judgment and shall be entitled to collect reasonable attorney's fees in any action to enforce this lien for the payment of such costs.

Amended by Acts 1982, No. 533, §1.

Art. 5188. Unsuccessful party condemned to pay costs

Except as otherwise provided by Articles 1920 and 2164, if judgment is rendered against a party who has been permitted to litigate without the payment of costs, he shall be condemned to pay the costs incurred by him, in accordance with the provisions of Article 5186, and those recoverable by the adverse party. The failure of the indigent party to pay the costs specified in this

Article shall not prevent entry of a judgment in favor of any party who is not responsible for the costs.

Acts 1993, No. 852, §1; Acts 2012, No. 741, §1.

TITLE II. DEFINITIONS

Art. 5251. Words and terms defined

Except where the context clearly indicates otherwise, as used in this Code:

(1) "Absentee" means a person who is either a nonresident of this state, or a person who is domiciled in but has departed from this state, and who has not appointed an agent for the service of process in this state in the manner directed by law; or a person whose whereabouts are unknown, or who cannot be found and served after a diligent effort, though he may be domiciled or actually present in the state; or a person who may be dead, though the fact of his death is not known, and if dead his heirs are unknown.

(2) "Agent for the service of process" means the agent designated by a person or by law to receive service of process in actions and proceedings brought against him in the courts in this state.

(3) "City court" includes a municipal court which has civil jurisdiction.

(4) "Competent court", or "court of competent jurisdiction", means a court which has jurisdiction over the subject matter of, and is the proper venue for, the action or proceeding.

(5) "Corporation" includes a private corporation, domestic or foreign, a public corporation, and, unless another article in the same Chapter where the word is used indicates otherwise, a domestic, foreign, or alien insurance corporation.

(6) "Foreign corporation" means a corporation organized and existing under the laws of another state or a possession of the United States, or of a foreign country.

(7) "Insurance policy" includes all policies included within the definition in R.S. 22:46, and a life, or a health and accident policy, issued by a fraternal benefit society.

(8) "Insurer" includes every person engaged in the business of making contracts of insurance as provided in R.S. 22:46 and a fraternal benefit society.

(9) "Law" as used in the phrases "unless otherwise provided by law" or "except as otherwise provided by law" means an applicable provision of the constitution, a code, or a statute of Louisiana.

(10) "Legal representative" includes an administrator, provisional administrator, administrator of a vacant succession, executor, dative testamentary executor, tutor, administrator of the estate of a minor child, curator, receiver, liquidator, trustee, and any officer appointed by a court to administer an estate under its jurisdiction.

(11) "Nonresident" means an individual who is not domiciled in this state, a foreign corporation which is not licensed to do business in this state, or a partnership or unincorporated association organized and existing under the laws of another state or a possession of the United States, or of a foreign country and includes a limited liability company which is not organized under the laws of and is not then licensed to do business in this state.

(12) "Person" includes an individual, partnership, unincorporated association of individuals, joint stock company, corporation, or limited liability company.

(13) "Property" includes all classes of property recognized under the laws of this state: movable or immovable, corporeal or incorporeal.

(14) The term "succession representative" includes executor, independent executor, administrator, independent administrator, provisional administrator, together with their successors. The inclusion of the terms "independent executor" and "independent administrator" within the definition of succession representative shall not be construed to subject such a succession representative to control of the court in probate matters with respect to the administration of a succession, except as expressly provided in Chapter 13 of Title III of Book VI. Acts 1999, No. 145, §2; Acts 2001, No. 974, §1; Acts 2008, No. 415, §2, eff. Jan. 1, 2009.