2023 Updates to the Louisiana Code of Civil Procedure

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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.

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. 457, §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; Acts 2023, No. 272, §1.

Art. 531. Actions pending in Louisiana court or courts

When two or more actions are pending in a Louisiana court or courts on the same transaction or occurrence, between the same parties in the same capacities, the defendant may have all but the first action dismissed by excepting thereto as provided in Article 925. When the defendant does not so except, the plaintiff may continue the prosecution of any of the actions, but the first final judgment rendered shall be conclusive of all.

Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 2023, No. 5, §1.

Art. 561. Abandonment in trial and appellate court

A.(1) An action is abandoned when the parties fail to take any step in its prosecution or defense in the trial court for a period of three years, unless it is a succession proceeding:

(a) Which has been opened;

(b) In which an administrator or executor has been appointed; or

(c) In which a testament has been probated.

(2) This provision shall be operative without formal order, but, on ex parte motion of any party or other interested person by affidavit that states that no step has been timely taken in the prosecution or defense of the action, the trial court shall enter a formal order of dismissal as of the date of its abandonment. The sheriff shall serve the order in the manner provided in Article 1314 and shall execute a return pursuant to Article 1292.

(3) A motion to set aside a dismissal may be made only within thirty days of the date of the sheriff's service of the order of dismissal. If the trial court denies a timely motion to set aside the dismissal, the clerk of court shall give notice of the order of denial pursuant to Article 1913(A) and shall file a certificate pursuant to Article 1913(D).

(4) An appeal of an order of dismissal may be taken only within sixty days of the date of the sheriff's service of the order of dismissal. An appeal of an order of denial may be taken only within sixty days of the date of the clerk's mailing of the order of denial.

B. Any formal discovery as authorized by this Code and served on all parties whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

C. An appeal is abandoned when the parties fail to take any step in its prosecution or disposition for the period provided in the rules of the appellate court.

Amended by Acts 1966, No. 36, §1; Acts 1982, No. 186, §1; Acts 1983, No. 670, §1; Acts 1987, No. 149, §1; Acts 1997, No. 1221, §1, eff. July 1, 1998; Acts 2003, No. 545, §1; Acts 2007, No. 361, §1, eff. July 9, 2007; Acts 2023, No. 5, §1.

Art. 925. Objections raised by declinatory exception; waiver

A. The objections that 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) Repealed by Acts 2023, No. 5, §3.

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 that may be raised through the declinatory exception 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; Acts 2023, No. 5, §§1, 3.

Art. 927. Objections raised by peremptory exception

A. The objections that 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.

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

B. Except as otherwise provided by Articles 1702(D), 4904(D), and 4921(C), the court shall not supply the objection of prescription, which shall be specially pleaded. The nonjoinder of a party, peremption, res judicata, discharge in bankruptcy, the failure to disclose a cause of action or a right or interest in the plaintiff to institute the suit, or the court's lack of jurisdiction over the subject matter of the action may be noticed by either the trial or appellate court on its own motion. Once the objection of the lack of subject matter jurisdiction is raised by the parties or noticed by the court on its own motion, the court shall address the objection before ruling on any other matter. If an exception is noticed by the appellate court on its own motion, the exception shall not be adjudicated without assigning the matter for briefing and permitting the parties an opportunity to request oral argument.

Acts 1995, No. 662, §1; Acts 2008, No. 824, §1, eff. Jan. 1, 2009; Acts 2021, No. 259, §2; Acts 2023, No. 5, §1.

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

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

B. 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.

C. The rule to show cause is a contradictory motion.

D. An unopposed motion is one to which all affected parties have consented prior to the filing of the motion. The mover shall certify in the motion that the mover has obtained the consent of all affected parties both to the motion and to the accompanying order that is presented to the court. Failure to certify that all affected parties have consented requires the motion to be set for contradictory hearing.

Acts 2023, No. 5, §1.

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)(a) The only documents that may be filed or referenced in support of or in opposition to the motion are pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records, certified copies of public documents or public records, certified copies of insurance policies, authentic acts, private acts duly acknowledged, promissory notes and assignments thereof, 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) Any document listed in Subsubparagraph (a) of this Subparagraph previously filed into the record of the cause may be specifically referenced and considered in support of or in opposition to a motion for summary judgment by listing with the motion or opposition the document by title and date of filing. The party shall concurrently with the filing of the motion or opposition furnish to the court and the opposing party a copy of the entire document with the pertinent part designated and the filing information.

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) Except for any document provided for under Subsubparagraph (A)(4)(b) of this Article, 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(A)(4) not less than sixty-five days prior to the trial.

(2) Except for any document provided for under Subsubparagraph (A)(4)(b) of this Article, any opposition to the motion and all documents in support of the opposition shall be filed and served in accordance with Article 1313(A)(4) 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(A)(4) not less than five days inclusive of legal holidays notwithstanding Article 5059(B)(3) 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.

(5) Notwithstanding Article 1915(B)(2), the court shall not reconsider or revise the granting of a motion for partial summary judgment on motion of a party who failed to meet the deadlines imposed by this Paragraph, nor shall the court consider any documents filed after those deadlines.

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 shall consider only those documents filed or referenced in support of or in opposition to the motion for summary judgment but shall not consider any document that is excluded pursuant to a timely filed objection. 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 whether the court sustains or overrules the objections raised.

(3) If a timely objection is made to an expert's qualifications or methodologies in support of or in opposition to a motion for summary judgment, any motion in accordance with Article 1425(F) to determine whether the expert is qualified or the expert's methodologies are reliable shall be filed, heard, and decided prior to the hearing on the motion for summary judgment.

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 renders judgment in accordance with the provisions of this Article that a party or nonparty is not negligent, is not at fault, or did not cause in whole or in part the injury or harm alleged, that party or nonparty 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 nonparty, except that evidence may be admitted to establish the fault of a principal when the party or nonparty acted pursuant to a mandate or procuration. During the course of the trial, no party or person shall refer directly or indirectly to any such fault, nor shall that party or nonparty's fault be submitted to the

jury or included on the jury verdict form except where evidence is admitted of the acts of the party or nonparty for purposes of establishing the fault of the party or nonparty's principal. This Paragraph does not apply if the trial or appellate court's judgment rendered in accordance with this Article is reversed. If the judgment is reversed by an appellate court, the reversal is applicable to all parties.

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; Acts 2023, No. 317, §1; Acts 2023, No. 368, §1.

NOTE: See Acts 2015, No. 422, §2, regarding applicability.

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 that the defendant 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. Except as otherwise provided in Article 3657, and except in an action for divorce under Civil Code Article 102 or 103 or in an action under Civil Code Article 186, the defendant in the principal action shall assert in a reconventional demand all causes of action that the defendant 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; Acts 2023, No. 421, §2.

Art. 1155. Supplemental pleadings

The court, upon written consent of the parties, may permit the mover to file a supplemental petition or answer setting forth items of damage, causes of action or defenses that have become exigible since the date of filing the original petition or answer, and that are related to or connected with the causes of action or defenses asserted therein. If the parties do not consent, the court may grant leave to file a supplemental petition or answer only upon contradictory motion.

Acts 2023, No. 5, §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 prepare and send to the other parties a privilege log that describes 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; Acts 2023, No. 5, §1.

Art. 1552. Environmental management orders

NOTE: Art. 1552(intro. para.) eff. until Jan. 10, 2024. See Acts 2023, No. 150.

Upon the request of any party in any civil action alleging environmental damage pursuant to R.S. 30:29, or the Department of Natural Resources, office of conservation, the court shall direct the attorneys for the parties to appear before the court to develop an environmental management order. The environmental management order shall authorize all parties to access the property allegedly impacted to perform inspections and environmental testing. The order shall require that all test results be submitted to all parties and the Department of Natural Resources, office of conservation, within thirty days of receipt thereof. Failure by a party to provide the results of testing to the other parties shall preclude that party from admitting those results into evidence in

the civil action. The environmental management order shall include reasonable terms for all of the following:

NOTE: Art. 1552(intro. para.) as amended by Acts 2023, No. 150, eff. Jan. 10, 2024.

Upon the request of any party in any civil action alleging environmental damage pursuant to R.S. 30:29, or the Department of Energy and Natural Resources, office of conservation, the court shall direct the attorneys for the parties to appear before the court to develop an environmental management order. The environmental management order shall authorize all parties to access the property allegedly impacted to perform inspections and environmental testing. The order shall require that all test results be submitted to all parties and the Department of Energy and Natural Resources, office of conservation, within thirty days of receipt thereof. Failure by a party to provide the results of testing to the other parties shall preclude that party from admitting those results into evidence in the civil action. The environmental management order shall include reasonable terms for all of the following:

(1) Access to the property.

(2) Investigation and environmental testing.

(3) Sampling and testing protocols.

(4) Specific time frames within which to conduct such testing and sampling.

Acts 2012, No. 754, §1; Acts 2023, No. 150, §23, eff. Jan. 10, 2024.

Art. 1563. Limited admission of liability in environmental damage lawsuits; effect

A.(1) If any party admits liability for environmental damage pursuant to R.S. 30:29, that party may elect to limit this admission of liability for environmental damage to responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination that is the subject of the litigation to applicable regulatory standards, hereinafter referred to as a "limited admission". A limited admission shall not be construed as an admission of liability for damages under R.S. 30:29(H), nor shall a limited admission result in a waiver of any rights or defenses of the admitting party.

NOTE: Paragraph (A)(2) eff. until Jan. 10, 2024. See Acts 2023, No. 150.

(2) Upon the expiration of the delay in which a party may file a limited admission under Subparagraph (5) of this Paragraph, and if one or more of the defendants have made a timely limited admission, the court shall refer the matter to the Department of Natural Resources, office of conservation, hereinafter referred to as the "department", to conduct a public hearing to approve or structure a plan which the department determines to be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards pursuant to the provisions of R.S. 30:29. There shall be a rebuttable presumption that the plan approved or structured by the department, after consultation with the Department of Environmental Quality as appropriate, shall be the most feasible plan to evaluate or remediate the environmental damage

under the applicable regulatory standards pursuant to the provisions of R.S. 30:29. For cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party.

NOTE: Paragraph (A)(2) as amended by Acts 2023, No. 150, eff. Jan. 10, 2024.

(2) Upon the expiration of the delay in which a party may file a limited admission under Subparagraph (5) of this Paragraph, and if one or more of the defendants have made a timely limited admission, the court shall refer the matter to the Department of Energy and Natural Resources, office of conservation, hereinafter referred to as the "department", to conduct a public hearing to approve or structure a plan which the department determines to be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards pursuant to the provisions of R.S. 30:29. There shall be a rebuttable presumption that the plan approved or structured by the department, after consultation with the Department of Environmental Quality as appropriate, shall be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards pursuant to the provisions of R.S. 30:29. For cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party.

(3) The limited admission, the plan approved by the department, and all written comments provided by the agencies pursuant to R.S. 30:29(C)(3)(b) shall be admissible subject to the Code of Evidence Articles 702 through 705 and Code of Civil Procedure Article 1425 as evidence in any action.

(4) At any time after the filing of a civil action subject to the provisions of R.S. 30:29 and, absent good cause shown, no later than ninety days after the completion of the environmental testing set forth in the environmental management order issued by the court pursuant to the Code of Civil Procedure Article 1552, any party may make a limited admission by filing the same into the record of the court proceeding.

(5) Any other party who intends to make a limited admission for the same or any other environmental damage shall file it into the record of the court proceeding within sixty days of the filing of the first limited admission by another party. Any limited admission filed by another party after the first limited admission is filed shall be filed no later than ninety days following the completion of the environmental testing set forth in the environmental management order.

(6) The party making a limited admission shall be required to deposit with the department sufficient funds to cover the cost of the department's review of the plans or submittals under R.S. 30:29, including the cost of holding a public hearing to approve or structure the feasible plan. The initial payment of these costs shall be in an amount of one hundred thousand dollars. This initial payment shall be deposited prior to or along with the submission of the plan by the admitting party. The admitting party shall be entitled to reimbursement of any portion of the deposit that is unused by the department. Within thirty days of the department's filing of the plan, the party admitting responsibility for implementing the most feasible plan shall reimburse the plaintiff for those costs which the court determines to be recoverable under R.S. 30:29(E)(1).

NOTE: Paragraph B eff. until Jan. 10, 2024. See Acts 2023, No. 150.

B. The provisions of this Article shall not establish primary jurisdiction with the Department of Natural Resources.

NOTE: Paragraph B as amended by Acts 2023, No. 150, eff. Jan. 10, 2024.

B. The provisions of this Article shall not establish primary jurisdiction with the Department of Energy and Natural Resources.

Acts 2012, No. 754, §1; Acts 2014, No. 400, §2; Acts 2023, No. 150, §23, eff. Jan. 10, 2024.

NOTE: See Acts 2012, No. 754, §2 and Acts 2014, No. 400, §3, relative to applicability.

Art. 1702. Default judgment

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

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

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

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

(5) No default judgment shall be rendered against a defendant when notice is required under Subparagraph (2) or (3) of this Paragraph unless proof of the required notice is made in the manner provided by R.S. 13:3205.

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

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

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

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

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

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

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

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

(2) If the demand is for divorce under Civil Code Article 103(1) and the defendant, by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation,

service of process, all legal delays, notice of trial, and appearance at trial, a default judgment of divorce may be entered against the defendant two days, exclusive of legal holidays, after the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public.

(3) The notice requirements contained in Paragraph A of this Article shall not apply when the plaintiff intends to obtain a default judgment for a demand for divorce as provided by this Paragraph.

Acts 1983, No. 266, §1, eff. Jan. 1, 1984; Acts 1986, No. 219, §1; Acts 1986, No. 285, §1; Acts 1986, No. 430, §1; Acts 1987, No. 182, §1; Acts 1987, No. 271, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 1992, No. 292, §1 ; Acts 2001, No. 512, §1; Acts 2008, No. 354, §1, eff. June 21, 2008; Acts 2013, No. 78, §1; Acts 2014, No. 791, §20; Acts 2015, No. 221, §2; Acts 2017, No. 419, §1; Acts 2021, No. 174, §5, eff. Jan. 1, 2022; Acts 2021, No. 259, §2; Acts 2023, No. 5, §1; Acts 2023, No. 7, §1.

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

Art. 1810. Directed verdicts

A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for a directed verdict that is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific grounds therefor. The order of the court granting a motion for a directed verdict is effective without any assent of the jury.

Acts 1983, No. 534, §8; Acts 2023, No. 5, §1.

Art. 1911. Final judgment; partial final judgment; signing; appeals

A. Except as otherwise provided by law, every final judgment shall contain the typewritten or printed name of the judge and be signed by the judge. Any judgment that does not contain the typewritten or printed name of the judge shall not be invalidated for that reason. Judgments may be signed by the judge by use of electronic signature.

B. For the purpose of an appeal as provided in Article 2083, no appeal may be taken from a final judgment until the requirement of this Article has been fulfilled. No appeal may be taken from a partial final judgment under Article 1915(B) until the judgment has been designated a final judgment under Article 1915(B). An appeal may be taken from a final judgment under Article 1915(A) without the judgment being so designated.

Amended by Acts 1974, No. 87, §1; Acts 1979, No. 618, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2014, No. 144, §1; Acts 2014, No. 606, §1; Acts 2023, No. 272, §1.

Art. 1912. Final judgment

A final judgment may be signed in any place where the judge is physically located and shall be sent to the clerk of the court in which the case is pending.

Amended by Acts 1974, No. 242, §1; Acts 2023, No. 5, §1.

Art. 2293. Notice to judgment debtor; appointment of attorney

A. Upon making a seizure of immovable property, the sheriff shall file with the recorder of mortgages of the parish in which the immovable property is located a notice of seizure setting forth the title and docket number of the action out of which the writ issued, the judicial district and parish in which the action is pending, and a description of the immovable property.

B.(1) After the seizure of property, the sheriff shall serve promptly upon the judgment debtor, in the manner provided for service of citation, a written notice of the seizure and a list of the property seized. The notice of seizure shall be accomplished by personal service or domiciliary service. If service cannot be made on the judgment debtor or his attorney of record, the court shall appoint an attorney upon whom service may be made. The notice of seizure shall include information concerning the time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B). If the sheriff's sale is to be conducted through an online auction in accordance with Article 2344, the notice of seizure, or a subsequent notice served upon the judgment debtor at least three days before the sale, shall state that the sheriff's sale will be conducted through an online auction, shall specify the date of the online auction and the time when bidding is scheduled to open, and shall identify the electronic address of the platform through which bids can be entered. In the case of seizure of residential property, the notice of seizure shall include information concerning the availability of housing counseling services, in accordance with the form provided in R.S. 13:3852(B).

(2) In addition to the written notice of seizure to be served on the judgment debtor as provided in Subparagraph (1) of this Paragraph, the sheriff shall also serve upon the occupants of the seized property a written notice stating that the subject property has been seized. Such service shall be accomplished by directing the notice to "occupants" of the seized premises and if the notice cannot be served personally or by domiciliary service upon the occupants, such service shall be accomplished by posting the notice upon the main entrance to the seized premises. The failure to serve the notices as provided herein shall not invalidate the sheriff's sale; however, such failure shall prevent the purchaser at the sheriff's sale from availing himself of the provisions of R.S. 13:4346 as it applies to the ejectment or eviction of any occupants of the seized premises other than the judgment debtor. The failure to serve the notices required in this Paragraph shall not affect the rights of the foreclosing creditor or of the purchaser at the sheriff's sale under Code of Civil Procedure Articles 4701 et seq.

(3)(a) If the premises foreclosed upon consists of more than ten units, instead of giving notice as provided in Subparagraph (2) of this Paragraph, the foreclosing creditor shall have the option of causing a sign or signs to be posted by the sheriff measuring not less than two feet high and three feet wide posted in such a manner as to notify residents of the building containing the following language or words to this effect: "_____ JUDICIAL DISTRICT COURT FOR THE PARISH OF _____, DOCKET NUMBER_____. THIS PROPERTY HAS BEEN SEIZED AND SHALL BE SOLD IN ACCORDANCE WITH LAW ON OR AFTER _____, 200__/s/ SHERIFF _____, PARISH. Any person who removes or damages this notice is subject to prosecution in accordance with R.S. 14:56." The cost of preparation of such sign shall be borne by the foreclosing creditor and the fee of the sheriff in connection with the posting of such sign shall be determined in accordance with the provisions of R.S. 13:5530(A)(14).

(b) An affidavit of the creditor shall be filed of record in the foreclosure proceeding stating that such sign was posted, which affidavit shall be prima facie evidence that the sign was posted in accordance with this Subparagraph.

(4) The provisions of Subparagraphs (2) and (3) of this Paragraph shall apply only to foreclosure proceedings on immovable property which is occupied or intended for occupancy as a residence and shall not apply to foreclosure proceedings on property subject to time share operations, hotels, motels, inns, guest houses, rooming houses, bed and breakfasts, camp sites, campgrounds, and other lodging establishments intended for the temporary housing of guests.

C. After the seizure of property, the sheriff shall give notice of the seizure to persons other than the judgment debtor in the manner and to the extent provided by R.S. 13:3886. The sheriff shall file with the clerk who issued the writ his affidavit setting forth the name of each person to whom the notices were given and the address or addresses to which the notices were sent. The affidavit, when received by the clerk, shall form part of the record and shall be considered prima facie correct.

D. Cancellation of a mortgage, whether legal, judicial, or conventional, shall allow any interested party to cancel the notice of seizure of property affected by the mortgage upon submitting a request to cancel evidencing that the mortgage has been cancelled and upon submission of proof that all costs due the clerk of court and the sheriff have been paid. Nevertheless, a notice of seizure shall prescribe ten years after the date of recordation unless reinscribed in the same manner as an instrument creating a mortgage under Civil Code Article 3362. Any interested party may obtain cancellation of the notice of seizure on the basis of prescription of ten years without submitting evidence that all costs due to the clerk of court and sheriff have been paid in full.

Amended by Acts 1974, No. 88, §1; Acts 1991, No. 662, §1, eff. Jan. 1, 1992; Acts 1995, No. 614, §1; Acts 2004, No. 877, §1; Acts 2005, No. 216, §1; Acts 2008, No. 828, §1; Acts 2012, No. 395, §1; Acts 2013, No. 339, §2; Acts 2023, No. 390, §1.

Art. 2334. Reading of advertisement and certificates

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

B. In the case of sale through an online auction in accordance with Article 2344, the requirements of Article 2344(D) apply.

C. The failure of the sheriff to procure, read aloud, or provide a copy of any certificate as required by this Article, or to comply with the requirements of Article 2344(D) in the case of an online auction, shall not impact the validity of the sale and shall not give rise to any cause of action against the sheriff, the seizing creditor, or the purchaser arising out of the failure.

Amended by Acts 2019, No. 415, §1; Acts 2021, No. 309, §1; Acts 2023, No. 390, §1.

Art. 2344. Online auctions

A. In lieu of selling the seized property at an auction conducted at a designated place, the sheriff may offer the property for sale by an online auction conducted through a computer network or other electronic telecommunications system generally available to the public.

B. Notice of a sale by online auction shall be published in accordance with Article 2331 and in the manner provided by law. In addition to the other requirements of law, the notice shall state that the sale will be conducted through an online auction, shall identify the electronic address of the platform through which bids can be entered, and shall specify the date of the sale and the time when bidding is scheduled to open.

C. Online auctions shall be conducted only on a day on which the sheriff is permitted by law to conduct judicial sales, beginning at a time set by the sheriff. Online bidding at each sale shall be open until at least two minutes have elapsed since the most recent bid was entered, or if no bid is entered, until at least two minutes have elapsed since bidding was opened. The amount of each bid shall be posted on the platform and made visible to the public contemporaneously with the entering of the bid. The sheriff may set a minimum incremental bid amount for each sale.

D. Before the opening of bidding, the platform on which bidders enter bids for the property shall display or otherwise make accessible the advertisement of the sale, the mortgage certificate, and all other certificates that the sheriff would be required by Article 2334 to read aloud at the time and place designated for a sheriff's sale. The platform shall also display the announcement required by Article 2335.

E. The sheriff may impose reasonable qualifications on bidders other than the seizing creditor and the debtor, including the requirement to pay a deposit or provide proof of available funds before the opening of bidding. These qualifications shall be displayed or otherwise made accessible on the platform.

F. Upon request made by the debtor before the day of the online auction, the sheriff shall inform the debtor of a location where the debtor may, without charge, have use of a computer terminal or other accommodation to bid at the online auction.

G. Entry by a seizing creditor of a bid at an online auction or the seizing creditor's indication on the platform that it is present for the online auction or that it will not enter a bid constitutes presence at the sale for the purposes of Article 2338.

H. Except as otherwise provided in this Article, the online auction shall be conducted as far as practicable in compliance with the requirements of this Chapter and Chapter 3 of this Title.

Acts 2023, No. 390, §1.

Art. 2721. Seizure of property; notice

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

B. The sheriff shall serve upon the defendant a written notice of the seizure of the property. The notice of seizure shall be accomplished by personal service or domiciliary service. The notice of seizure shall reproduce in full the provisions of Article 2642 and include information concerning the time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B). If the sheriff's sale is to be conducted through an online auction in accordance with Article 2344, the notice of seizure, or a subsequent notice served upon the defendant at least three days before the sale, shall state that the sheriff's sale will be conducted through an online auction,

shall specify the date of the online auction and the time when bidding is scheduled to open, and shall identify the electronic address of the platform through which bids can be entered.

C. If the seized property is residential property, the notice of seizure shall include information concerning the availability of housing counseling services, in accordance with the form provided in R.S. 13:3852(B).

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

Acts 1989, No. 137, §18, eff. Sept. 1, 1989; Acts 2001, No. 128, §17, eff. July 1, 2001; Acts 2006, No. 498, §1; Acts 2013, No. 339, §2; Acts 2016, No. 132, §1; Acts 2021, No. 259, §2; Acts 2023, No. 390, §1.

Art. 2724. Articles relating to sales under fieri facias applicable

A. The provisions of Articles 2293(A) through (C), 2333 through 2335, 2337 through 2344, and 2371 through 2381, relating to a sale of property under the writ of fieri facias, shall apply to a sale of property under the writ of seizure and sale.

B. The provisions of Article 2336 shall also apply to a sale of property under the writ of seizure and sale, unless appraisement has been waived, as provided in Article 2723.

Acts 1991, No. 662, §1, eff. Jan. 1, 1992; Acts 2012, No. 127, §1; Acts 2023, No. 390, §1.

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 procuration or mandate 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. Additionally, a succession representative may appoint an agent to alienate, acquire, lease, or encumber specifically described property on specific terms. A procuration or mandate granted for this purpose may either recite the specific terms of the transaction or state that the succession representative has approved the terms of the transaction. The procuration or mandate appointing the agent shall be filed in the record of the succession proceeding and shall not need court approval.

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; Acts 2023, No. 38, §1, eff. July 1, 2023.

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

A. A temporary restraining order shall be granted without notice from the court 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 that have been made to give notice or the reasons supporting the applicant's 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; Acts 2023, No. 5, §1.

Art. 3651. Petitory action

The petitory action is one brought by a person who claims the ownership of, but who does not have the right to possess, immovable property or a real right therein, against another who is in possession or who claims the ownership thereof adversely, to obtain judgment recognizing the plaintiff's ownership.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

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; Acts 2023, No. 5, §1.

Art. 3653. Same; proof of title; immovable

A. To obtain a judgment recognizing his ownership of immovable property or real right therein, the plaintiff in a petitory action shall:

(1) Prove that he has acquired ownership from a previous owner or by acquisitive prescription, if the court finds that the defendant has been in possession for one year after having commenced possession in good faith and with just title or that the defendant has been in possession for ten years.

(2) Prove a better title thereto than the defendant in all other cases.

B. When the titles of the parties are traced to a common author, the common author is presumed to be the previous owner.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3654. Proof of title in action for declaratory judgment, concursus, expropriation, or similar proceeding

When the issue of ownership of immovable property or of a real right therein is presented in an action for a declaratory judgment, or in a concursus, expropriation, or similar proceeding, or when the issue of the ownership of funds that are deposited in the registry of the court and that belong to the owner of the immovable property or of the real right therein is so presented, the court shall render judgment as follows:

(1) If the party who would be entitled to the possession of the immovable property or real right therein in a possessory action has been in possession for one year after having commenced possession in good faith and with just title or has been in possession for ten years, the court shall render judgment in favor of that party, unless the adverse party proves that he would be entitled to a judgment recognizing his ownership in a petitory action under Article 3653(A)(1).

(2) In all other cases, the court shall render judgment in favor of the party who proves better title to the immovable property or real right therein.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3655. Possessory action

The possessory action is one brought by the possessor or precarious possessor of immovable property or of a real right therein to be maintained in his possession of the property or enjoyment of the right when he has been disturbed, or to be restored to the possession or enjoyment thereof when he has been evicted.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3656. Same; parties; venue

A. A possessory action may be brought by one who possesses for himself. A person entitled to the use or usufruct of immovable property, and one who owns a real right therein, possesses for himself. A possessory action may also be brought by a precarious possessor against anyone except the person for whom he possesses.

B. The possessory action shall be brought against the person who caused the disturbance, and in the venue provided by Article 80(A)(1), even when the plaintiff prays for a judgment for the fruits and revenues of the property, or for damages.

Acts 2010, No. 185, §1; Acts 2023, No. 421, §2.

Art. 3657. Same; cumulation with petitory action or declaratory judgment action; reconventional demand or separate suit asserting ownership or title

A. The plaintiff shall not cumulate the possessory action with either the petitory action or a declaratory judgment action to determine ownership. If the plaintiff does so, the possessory action does not abate, but the defendant may object to the cumulation by asserting a dilatory exception. If, before executory judgment in the possessory action, the plaintiff institutes the petitory action or a declaratory judgment action in a separate suit, the possessory action abates.

B. When the defendant in a possessory action asserts title in himself, in the alternative or otherwise, the defendant does not thereby convert the possessory action into a petitory action or judicially confess the possession of the plaintiff in the possessory action, but the defendant's assertions of title shall be considered in defense of the possessory action only for the purposes stated in Article 3661(B).

C. Unless the plaintiff in the possessory action seeks an adjudication of his ownership, the defendant shall not file a reconventional demand asserting a petitory action or declaratory judgment action to determine ownership. If, before executory judgment in a possessory action, the defendant therein institutes a petitory action or a declaratory judgment action to determine ownership in a separate suit he files against the plaintiff in the possessory action, the defendant in the possessory action judicially confesses the possession of the plaintiff in the possessory action.

Acts 2023, No. 421, §2.

Art. 3658. Same; requisites

To maintain the possessory action the plaintiff shall allege and prove all of the following:

(1) The plaintiff had possession or precarious possession of the immovable property or real right therein at the time the disturbance occurred.

(2) The plaintiff and his ancestors in title, or the person for whom the plaintiff possesses precariously and that person's ancestors in title, had such possession quietly and without interruption for more than a year immediately prior to the disturbance, unless evicted by force or fraud.

(3) The disturbance was one in fact or in law, as defined in Article 3659.

(4) The possessory action was instituted within a year of the disturbance.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3659. Same; disturbance in fact and in law defined

A. Disturbances of possession that give rise to the possessory action are of two kinds: disturbance in fact and disturbance in law.

B. A disturbance in fact is an eviction, or any other physical act that prevents the possessor of immovable property or of a real right therein from enjoying his possession quietly, or that throws any obstacle in the way of that enjoyment.

C. A disturbance in law is the occurrence or existence of any of the following adversely to the possessor of immovable property or a real right therein:

(1) The execution, recordation, or registry, after the possessor or his ancestors in title acquired the right to possess, of any instrument that asserts or implies a right of ownership or right to the possession of the immovable property or a real right therein.

(2) The continuing existence of record of any instrument that asserts or implies a right of ownership or right to the possession of the immovable property or a real right therein, unless the instrument was recorded before the possessor and his ancestors in title commenced possession.

(3) Any other claim or pretension of ownership or right to the possession of the immovable property or a real right therein, whether written or oral, except when asserted in an action or proceeding.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3660. Same; possession

A. A person is in possession of immovable property or of a real right therein, within the intendment of the articles of this Chapter, when the person has the corporeal possession thereof, or civil possession thereof preceded by corporeal possession by him or his ancestors in title, and possesses for himself or precariously for another, whether in good or bad faith, or even as a usurper.

B. Subject to the provisions of Articles 3656 and 3664, a person who claims the ownership of immovable property or of a real right therein possesses through his lessee, through another who occupies the property or enjoys the right under an agreement with him or his lessee, or through a person who has the use or usufruct thereof to which his right of ownership is subject.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3661. Same; title not at issue; limited admissibility of evidence of title

A. In the possessory action, the ownership or title of the parties to the immovable property or real right therein is not at issue.

B. No evidence of ownership or title to the immovable property or real right therein shall be admitted except to prove any of the following:

(1) The possession thereof by a party as owner.

(2) The extent of the possession thereof by a party and his ancestors in title.

(3) The length of time in which a party and his ancestors in title have had possession thereof.

Amended by Acts 1981, No. 256, §1; Acts 2023, No. 421, §2.

Art. 3662. Same; relief that may be granted successful plaintiff in judgment; appeal

A. A judgment rendered for the plaintiff in a possessory action shall:

(1) Recognize the plaintiff's right to the possession of the immovable property or real right therein, and restore him to possession thereof if he has been evicted, or maintain him in possession thereof if the disturbance has not been an eviction.

(2) Order the defendant to assert his adverse claim of ownership of the immovable property or real right therein in a petitory action to be filed within sixty days after the date the judgment becomes executory, or be precluded thereafter from asserting the ownership thereof, if the plaintiff has prayed for this relief and this relief is not precluded by Paragraph B of this Article.

(3) Award the plaintiff the damages to which he is entitled and for which he has prayed.

B. A judgment in a possessory action shall not grant the relief described in Subparagraph (A)(2) of this Article against the state or against a defendant who appeared in the action only through an attorney appointed to represent him under Article 5091.

C. A suspensive appeal from the judgment rendered in a possessory action may be taken within the delay provided in Article 2123, and a devolutive appeal may be taken from the judgment only within thirty days of the applicable date provided in Article 2087(A).

Amended by Acts 1981, No. 256, §1; Acts 2010, No. 185, §1; Acts 2023, No. 421, §2.

Art. 3669. Possessory action unavailable between owner of mineral servitude and owner of dependent mineral royalty

In the event of a dispute between the owner of a mineral servitude and the owner of a mineral royalty burdening or alleged to burden the servitude in question, the possessory action is unavailable to either party, and the only available real action is the petitory action. The burden of proof on the plaintiff in the petitory action is to prove a better title than that of the defendant.

Added by Acts 1974, No. 547, §2, eff. Jan. 1, 1975; Acts 2023, No. 421, §2.

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) Repealed by Acts 2023, No. 5, §3.

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; Acts 2023, No. 5, §3.