

**RULES FOR
LOUISIANA DISTRICT COURTS**

AND

**NUMBERING SYSTEMS FOR
LOUISIANA FAMILY AND DOMESTIC RELATIONS COURTS
AND JUVENILE COURTS**

Adopted April 1, 2002

Includes Amendments through October 29, 2003

**RULES FOR
LOUISIANA DISTRICT COURTS**

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**RULES FOR LOUISIANA DISTRICT COURTS
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TITLE I

RULES FOR PROCEEDINGS IN DISTRICT COURTS, FAMILY AND DOMESTIC RELATIONS COURTS, AND JUVENILE COURTS

Chapter 1 CONSTRUCTION, APPLICATION AND AMENDMENT

Rule 1.0 Construction of Rules and Appendices

These Rules and Appendices are intended to govern interaction between the courts, counsel, and litigants and to ensure the administration of justice in an efficient and effective manner.

Local administrative rules governing internal operating procedures of the courts, on topics not otherwise covered by these rules, may be adopted by *en banc* order of the court.

Any local administrative rule shall be made available to the public by filing a copy with the Judicial Council of the Supreme Court and by filing a copy with the clerk of court for the appropriate parish or parishes.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) The Louisiana Supreme Court has constitutional authority to promulgate these Rules under La. Const. art. V § 5. These Rules are intended to supplement the Codes of Civil and Criminal Procedure. Therefore a conflict between a Rule and legislation should be resolved by following the legislation.

(b) The Appendices are subordinate to the Rules. Therefore, a conflict between a Rule and an Appendix should be resolved by following the Rule. The information in the Appendices was provided by the various judicial districts and may be revised in accordance with the procedure found in Rule 1.3 (c).

Rule 1.1 Application of Rules and Appendices; Citation Form

(a) Title I and Appendices 1 through 6 apply to all proceedings in district courts, family and domestic relations courts, and juvenile courts.

(b) Title II and Appendices 3 and 7 through 10 apply to all civil (except for family, juvenile and domestic relations) proceedings in district courts.

(c) Title III and Appendices 11 through 18 apply to criminal proceedings in all district courts.

(d) The numbering system for rules in Title IV applies to all Louisiana family and domestic relations proceedings in district courts and in the Family Court for the Parish of East Baton Rouge.

(e) The numbering system in Title V applies to all juvenile proceedings in district courts and in juvenile courts for the Parishes of East Baton Rouge, Orleans, Jefferson and Caddo.

(f) These Rules shall be known as the “Louisiana Rules for District Courts” and may be officially cited: La. Dist. Ct. R. __.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Comment

The full citation of the Rules for use in Tables of Authorities shall be as follows:

La. Dist. Ct. R. 1.0, La. R.S. Title 13, Vol. 8 (West 20XX & Supp. 20XX).

Rule 1.2 Effective Date

The effective date of the Louisiana Rules for District Courts and all Appendices is April 1, 2002. These rules and all Appendices shall govern all proceedings commenced thereafter and, insofar as just and practicable, all proceedings then pending.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 1.3 Amendment of Rules and Updating Appendices

(a) Proposed rules or amendments to existing rules in Titles I through III or to the numbering systems in Titles IV and V must be approved by the Supreme Court. Proposed amendments may be submitted by any Louisiana judge or licensed member of the Louisiana bar to the Judicial Administrator of the Supreme Court.

(b) Changes to the rules organized according to the numbering systems in Titles IV and V must be approved by the district court, criminal court, family court or juvenile court that adopted the rule, sitting *en banc*, and a copy must be provided to the Office of the Judicial Administrator of the Supreme Court within 30 days of passage.

(c) Changes in the information contained in the appendices to these rules shall be transmitted to the office of the Judicial Administrator of the Supreme Court within 30 days of the date of the change. The Office of the Judicial Administrator of the Supreme Court shall update the appendices annually by communication with the Chief Judge and the Clerk of Court for each judicial district, family court or juvenile court.

(d) The rules and appendices shall be published annually by West Publishing Company and shall be available on the official website of the Supreme Court of Louisiana.

Adopted April 1, 2002, effective April 1, 2002.

Rule 1.4 Deviations from Rules

An individual judge may, in the interest of justice and upon notice to all parties, permit deviations from these rules in a particular proceeding. Any such deviation shall be noted on the record in open court in the presence of all parties or by written order filed into the record of the proceedings and mailed to all parties or their counsel of record.

Adopted April 1, 2002, effective April 1, 2002.

Rule 1.5 Computation of Time

1. The following rules apply in computing any period of time specified in these rules:

- (a) Exclude the day of the act, event, or default that begins the period.
- (b) Exclude intermediate legal holidays when the period is less than seven days, unless the period is stated in calendar days.
- (c) Include the last day of the period, unless the last day is a legal holiday, in which case the period runs until the end of the next day that is not a legal holiday. For example:
 - (i) When a rule requires an act be done 10 days before an event, and the tenth day falls on a Sunday, the act must be done no later than the preceding Friday (assuming Friday is not a legal holiday).
 - (ii) When a rule requires an act be done 10 days after an event, and the tenth day falls on a Sunday, the act must be done no later than the following Monday (assuming Monday is not a legal holiday).

Adopted June 2, 2003, effective July 1, 2003.

Comments

(a) For determination of whether a day is a legal holiday, refer to La. Code Civ. Proc. art. 5059 and La. R.S. 1:55.

(b) Computation example for cases in which a rule requires an act be done after an event: Rule 17.5 requires “notice of judgment” be sent to the judge, the clerk

and the parties “within 15 days after rendition of the judgment.” The district court rendered judgment on the appeal on Tuesday, December 10, 2002. The deadline for sending the notice of judgment is Thursday, December 26, 2002 because Wednesday, December 25 is a legal holiday.

(c) Computation example for cases in which a rule requires an act be done before an event: Rule 9.9(b) requires any opposition memorandum be filed “at least eight calendar days before the scheduled hearing.” You wish to oppose an exception or motion that is set for hearing on Monday, December 16, 2002. The deadline for filing and serving an opposition memorandum is Friday, December 6, 2002 because the filing and serving deadline is Sunday, December 8, 2002, which is a legal holiday.”

(d) This Rule governs only the computation of time under these rules. This Rule is not intended to apply to computation of time under any legislation or any other law.

Chapter 2 DATES OF COURT

Rule 2.0 Dates of Court

The local holidays observed by each judicial district or court, in addition to legal holidays, are as set forth in Appendix 1 to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 3 JUDGES AND FACSIMILE TRANSMISSIONS TO JUDGES

Rule 3.0 Office Hours

When not on the bench, each judge shall maintain such regular office days and hours as may be necessary to conduct public business.

Adopted April 1, 2002, effective April 1, 2002.

Rule 3.1 Divisions or Sections of Court

Courts may by *en banc* order divide into divisions or sections for the purpose of allotting matters within the court’s jurisdiction. Those courts that have done so, and their respective methods for assigning judges to divisions or sections, are indicated in Appendix 2.

Adopted April 1, 2002, effective April 1, 2002.

Rule 3.2 Duty Judges

Each judicial district or court may designate one or more of its members to act as a duty judge. In civil proceedings, the duties assigned to a duty judge shall comply with La. Code Civ. Proc. art. 253.3. The identity of each duty judge shall be prominently displayed in a manner deemed appropriate by the court. If the court chooses to use multiple duty judges to perform various functions, the delineation of each duty judge's duties shall also be prominently displayed. The length of term and duties of the duty judge shall be at the sole discretion of the judges in each judicial district or court sitting *en banc*. For those judicial districts or courts that have designated duty judges, the office hours for performance of his or her duties, and the duties assigned, are listed in Appendix 3.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Previous rules of court adopted by individual judicial districts often included various rules dealing with judges, such as selection of a chief judge; courts sitting *en banc*; duties and powers of judges; duty judges; random allotment; recusal, transfer and consolidation; accessibility; and judicial accounts.

Many of these rules duplicated articles of the Louisiana Constitution, applicable Revised Statutes, or Supreme Court of Louisiana decisions. Furthermore, many of the rules dealt with the internal administration of the court rather than with the interaction of counsel and litigants with the judicial process.

No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

- (1) The Court *En Banc* - La. R.S. 13:472; La. R.S. 13:474; La. R.S. 13:991-999; La. R.S. 13:1221; La. R.S. 13:1312; La. Code Civ. Proc. art. 193.
- (2) Chief Judge - La. Const. Art. 5, Sec. 17.
- (3) Duties & Powers of Judges - La. Code Civ. Proc. art. 191; La. R.S. 13:501.
- (4) Random Allotment - *State v. Sprint Communications Co., L.P.*, 699 So.2d 1058 (La. 1997); La. Code Civ. Proc. art. 253.1.
- (5) Recusal - La. Code Civ. Proc. arts. 151-158, 161.
- (6) Transfer of Actions - *Sprint, supra*; La. Code Civ. Proc. art. 253.2.

(7) Consolidation of Actions - La. Code Civ. Proc. art. 1561.

(8) Cumulation of Actions - La. Code Civ. Proc. arts. 461, et seq.

(b) The constitutional implications of the decision in the *Sprint* case, *supra*, regarding random allotment of cases affect a court's ability to appoint duty judges and, more importantly, the designation of duties to such judges. Act 24 §1 of the 1st Extraordinary Session of the 2000 Legislature enacted La. Code Civ. Proc. art. 253.3, effective June 6, 2000, which clarifies the matters that a duty judge may hear. The constitution and the Code of Criminal Procedure govern the appointment of duty judges in criminal proceedings.

(c) Previous rules adopted by individual courts often included various provisions regarding quasi-judicial officers. Many of these rules duplicated applicable revised statutes or code articles.

No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

(1) Judges *Ad Hoc* - La. Const. Art. 5, Sections 5(A), 22(B); La. Code Civ. Proc. arts. 157, 158 and 161.

(2) Magistrate Commissioners - La. R.S. 13:713.

(3) The clerk of court acting as justice of the peace - La. Code Civ. Proc. art. 284.

(4) Court Appointed Special Masters - La. R.S. 13:4165.

(d) See La. R.S. 13:501 regarding sessions of court.

Rule 3.3 Facsimile Transmissions to Judges

Any document sent to a judge by facsimile transmission must not exceed fifteen pages, unless the judge has granted permission for a longer transmission. A party sending such facsimile transmission in excess of fifteen pages must contact the Court prior to transmission for each transmission sent.

Adopted October 29, 2003, effective January 4, 2004.

Chapter 4 COURT PERSONNEL

Rule 4.0 Court Reporters

The court shall provide a method for making a verbatim recording of all proceedings conducted in open court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 4.1 Judicial Administrators

The court *en banc* may appoint and fix the salary of a judicial administrator to assist the court in fulfilling its administrative obligations. Those judicial districts that have appointed an administrator are listed in Appendix 4.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Previous rules of court adopted by individual judicial districts often included various rules dealing with court reporters, court criers and bailiffs. Many of these rules duplicated revised statutes or code articles.

(b) No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

- (1) Court Reporters - La. R.S. 13:961, 982; La. Code Civ. Proc. art. 372.
- (2) Criers - La. Code Civ. Proc. art. 333.
- (3) Docket and Minute Books - La. Code Civ. Proc. arts. 254 and 256.
- (4) Costs of transcription, maximum and minimum court reporter fees - La. R.S.13:961, et seq.

Chapter 5 COURTROOM USE, ACCESSIBILITY AND SECURITY

Rule 5.0 Courtroom Use

The name of the judge assigned to a particular courtroom shall be prominently displayed outside the courtroom in a manner deemed appropriate by the court. The clerk of court shall maintain a list of all courtrooms, their locations and the judges assigned to each.

Adopted April 1, 2002, effective April 1, 2002.

Rule 5.1 Accessibility to Judicial Proceedings

(a) The facilities, services, and programs of the court shall be readily accessible to persons with disabilities. Attached as Appendix 5A is a form that may be used to request reasonable accommodations extended under the ADA. Attached as Appendix 5B is a form that may be used to request an interpreter.

(b) In addition to the above requirements, courts having 50 or more employees shall develop, promulgate, and maintain a problem-resolution process, designating a responsible court officer or employee to coordinate access to court programs and services by persons with disabilities, and to resolve complaints regarding lack of access for such persons.

Adopted April 1, 2002, effective April 1, 2002.

Rule 5.2 Courtroom Security

The sheriff or his designated deputies shall provide security for the courtrooms, chambers, judicial offices, and hallways within the courthouse. Security procedures shall be approved by the chief judge of the district court or other court.

Adopted April 1, 2002, effective April 1, 2002.

**Chapter 6 COURTROOM DECORUM AND THE CONDUCT OF ATTORNEYS
AND JUDGES**

Rule 6.0 The Opening of Court

The bailiff shall open each session of court with an appropriate recitation and order, such as the following:

“Oyez, Oyez, Oyez, Section (or Division) _____, the Honorable _____ Judicial District Court (or other court) of the State of Louisiana, in and for the Parish of _____, is now in session. The Honorable Judge _____ presiding. Order and silence are commanded. God save the State and this Honorable Court.

The bailiff shall direct all persons in the courtroom when they are to rise, in accordance with the directions of the court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 6.1 General Courtroom Conduct

- (a) No person may engage in any conduct that would be disruptive to the business of the court, including the following:
 - (1) Using tobacco in any form at any time.
 - (2) Reading newspapers while court is in session.
 - (3) Displaying any political advertisement of any nature.
- (b) Attorneys, as officers of the court, must help to maintain the dignity of the court. Male attorneys and clerks of court must wear coats and ties in the courtroom. Female attorneys and clerks of court must wear a comparable level of attire.
- (c) No one may wear a hat or be barefoot in the courtroom. Witnesses and spectators must appear neat and clean, within the limits of propriety. The court will make allowances for those who must appear in work clothes and for those whose attire is dictated by their religion.
- (d) No one is allowed inside the rail except for attorneys, litigants, officers of the court, and anyone else that the court specifically authorizes.
- (e) A judge should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto at least during sessions of court or recesses between sessions. See Code of Judicial Conduct Canon 3A(9)
- (f) A judge may prohibit the use of electronic transmitters, receivers, entertainment devices such as cellular telephones, beepers, computer disc players, etc. in a courtroom.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 6.2 Attorney Conduct

- (a) Any attorney who tenders himself or herself before the court and represents that he or she is duly authorized to practice law, but who has been declared ineligible, suspended, or disbarred from practice before the courts of this State, shall be subject to contempt proceedings.
- (b) No one may represent a party in any proceeding except counsel of record, unless allowed to do so by law.
- (c) When an attorney is interested in two or more matters fixed for hearing in different sections or divisions of court on the same day, that attorney must notify the minute clerk of

the section or sections from which he or she expects to be temporarily absent as to his or her presence in another court.

(d) As a general rule, attorneys desiring to address the court while it is in session shall do so while standing. Unless directed otherwise by the judge, all judgments, orders, decrees, or other documents shall be handed to the clerk, who shall hand them to the judge.

(e) Private conversation or conference between attorneys or others in attendance during any court session should not be disruptive to the proceedings.

(f) Attorneys shall address all remarks, objections, and comments to the judge, never to opposing counsel. Impromptu argument or discussion between counsel will not be permitted.

(g) Except with leave of court obtained, only one attorney for each party shall examine any one witness.

(h) Counsel may not approach the witness in the witness chair without first obtaining the court's permission.

(i) Before showing an exhibit to a witness, counsel must first either show opposing counsel the exhibit or provide opposing counsel a copy of the exhibit.

(j) Counsel and parties to any litigation shall not send the court copies of correspondence between them.

(k) Attorneys should abide by the Rules of Professional Conduct and the Louisiana Code of Professionalism, the latter of which is set forth below:

The Louisiana Code of Professionalism

1. My word is my bond. I will never intentionally mislead the court or other counsel. I will not knowingly make statements of fact or law that are untrue.
2. I will clearly identify for other counsel changes I have made in documents submitted to me.
3. I will conduct myself with dignity, civility, courtesy and a sense of fair play.
4. I will not abuse or misuse the law, its procedures or the participants in the judicial process.

5. I will consult with other counsel whenever the scheduling procedures are required and will be cooperative in scheduling discovery, hearings, the testimony of witnesses and in the handling of the entire course of any legal matter.
6. I will not file or oppose pleadings, conduct discovery or utilize any course of conduct for the purpose of undue delay or harassment of any other counsel or party. I will allow counsel fair opportunity to respond and will grant reasonable requests for extensions of time.
7. I will not engage in personal attacks on other counsel or the court. I will support my profession's efforts to enforce its disciplinary rules and will not make unfounded allegations of unethical conduct about other counsel.
8. I will not use the threat of sanctions as a litigation tactic.
9. I will cooperate with counsel and the court to reduce the costs of litigation and will readily stipulate to all matters not in dispute.
10. I will be punctual in my communication with clients, other counsel, the court, and in honoring scheduled appearances.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004.

Comments

(a) The Louisiana Code of Professionalism was authored by the Professionalism and Quality of Life Committee of the Louisiana State Bar Association in 1991. It was adopted by the Louisiana State Bar Association House of Delegates and approved by the Supreme Court of Louisiana in January 1992.

(b) Rule 6.2(j) is not intended to prohibit attaching correspondence between counsel to a pleading where appropriate, such as to show that attempts have been made to schedule a conference to resolve discovery disputes under Rule 10.1.

Rule 6.3 Code of Professionalism in the Courts

Attorneys and judges should conform to the Code of Professionalism adopted as Section 11 of Part G, General Administrative Rules, Supreme Court of Louisiana:

The Code of Professionalism in the Courts

PREAMBLE

The following standards are designed to encourage us, the judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of professionalism and civility, both of which are hallmarks of a learned profession dedicated to public service.

These standards shall not be used as a basis for litigation or sanctions or penalties. Nothing in these standards alters or detracts from existing disciplinary codes or alters the existing standards of conduct against which judicial or lawyer negligence may be determined.

However, these standards should be reviewed and followed by all judges of the State of Louisiana. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

JUDGES' DUTIES TO THE COURT

We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and authority to insure that all litigation proceedings are conducted in a civil manner.

We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.

We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

We will be considerate of time schedules of lawyers, parties, and witnesses in scheduling all hearings, meetings and conferences.

We will make all reasonable efforts to decide promptly all matters presented to us for decision.

We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

We will not impugn the integrity or professionalism of any lawyer on the basis of clients whom or the causes which a lawyer represents.

We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

We will not adopt procedures that needlessly increase litigation expense.

We will bring to lawyers' attention uncivil conduct which we observe.

We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

We will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge in all written and oral communications.

We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

LAWYERS' DUTIES TO THE COURTS

We will speak and write civilly and respectfully in all communications with the court.

We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.

We will not engage in *ex parte* communication on any pending action.

We will attempt to verify the availability of necessary participants and witnesses before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, so we can promptly notify the court of any likely problems.

We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they too, are an integral part of the judicial system.

Adopted April 1, 2002, effective April 1, 2002.

Rule 6.4 District Court Standards

The district courts, family and domestic relations courts and juvenile courts should comply with the District Court Standards adopted as Section 10 of Part G, General Administrative Rules, Supreme Court of Louisiana:

I. ACCESS TO JUSTICE

Standard 1.1 Public Proceedings

The court conducts openly its judicial proceedings that are public by law or custom.

Standard 1.2 Safety, Accessibility, and Convenience

The court encourages responsible parties to make court facilities safe, accessible and convenient.

Standard 1.3 Effective Participation

All who appear before the court are given reasonable opportunities to participate effectively without undue hardship or inconvenience.

Standard 1.4 Courtesy, Responsiveness, and Respect

Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

Standard 1.5 Affordable Cost of Access

The court encourages all responsible public bodies and public officers to make the costs of access to the trial court's proceedings and records - whether measured in terms of money, time, or the procedures that must be followed - reasonable, fair, and affordable.

II. EXPEDITION AND TIMELINESS

Standard 2.1 Case Processing

The trial court encourages timely case management and processing.

Standard 2.2 Required Reports and Requests for Information

The trial court promptly provides required reports and responds to requests for information.

Standard 2.3 Prompt Implementation of Law and Procedure

The trial court promptly implements changes in the law and procedure.

III. EQUALITY, FAIRNESS, AND INTEGRITY

Standard 3.1 Fair and Reliable Judicial Process

Trial court procedures faithfully adhere to laws, procedural rules, and established policies.

Standard 3.2 Juries

The jury venire is representative of the jurisdiction from which it is drawn.

Standard 3.3 Court Decisions and Actions

Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

Standard 3.4 Clarity

Decisions of the trial court address clearly the issues presented to it and, where appropriate, specify how compliance can be achieved.

Standard 3.5 Responsibility for Enforcement

The trial court takes appropriate responsibility for the enforcement of its orders.

Standard 3.6 Production and Preservation of Records

Records of all relevant court decisions and actions are accurate and properly preserved.

IV. INDEPENDENCE AND ACCOUNTABILITY

Standard 4.1 Independence and Comity

The trial court maintains its constitutional independence and observes the principle of cooperation with other branches of government.

Standard 4.2 Accountability for Public Resources

The trial court responsibly seeks, uses, and accounts for its public resources.

Standard 4.3 Personnel Practices and Decisions

The trial court uses fair employment practices.

Standard 4.4 Public Education

The trial court informs the community of its structure, function, and programs.

Standard 4.5 Response to Changes

The trial court recognizes new conditions or emergent events and adjusts its operations as necessary.

V. PUBLIC TRUST AND CONFIDENCE

Standard 5.1 Accessibility

The trial court and the justice it renders are perceived by the public as accessible.

Standard 5.2 Fair, Impartial, and Expeditious Court Functions

The trial court functions fairly, impartially, and expeditiously in order that the public has trust and confidence in the integrity of the decisions of the court.

Standard 5.3 Judicial Independence and Accountability

The trial court is perceived to be independent, cooperative with other components of government, and accountable.

Adopted April 1, 2002, effective April 1, 2002.

Comment

While many of these standards may be applicable to juvenile and family courts, some of the standards will need to be modified in consideration of the special needs and functions of these specialized jurisdiction courts.

Chapter 7 RECORD MANAGEMENT

Rule 7.0 Record Management

Each clerk of court shall maintain and destroy records according to law.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Rules of court adopted by individual judicial districts often included various rules dealing with withdrawal of records, maintenance of records, destruction of records, and other miscellaneous administrative matters. These rules duplicated articles of the Louisiana Code of Civil Procedure, Louisiana Code of Criminal Procedure, and Revised Statutes.

(b) No provisions restating existing law have been included in these rules. The citations to the deleted topics are as follows:

- (1) Withdrawal of records - La. R.S. 44:32, et seq. and La. R.S. 13:4681.

- (2) Destruction of records - La. R.S. 13:917 and 1221.
- (3) Preservation of records - La. R.S. 44:36.
- (4) See Title III, Rule 15.0 regarding case records in criminal proceedings.

Chapter 8 **INDIGENTS AND *IN FORMA PAUPERIS***

Rule 8.0 **Uniform *In Forma Pauperis* Affidavit**

A party other than an inmate who wishes to proceed *in forma pauperis* must complete and file the affidavit in Appendix 6.

Adopted April 1, 2002, effective April 1, 2002.

Rule 8.1 **Traversal of *In Forma Pauperis* Status**

The court, on its own motion or the motion of any party, may hold a hearing to traverse the right of any litigant to proceed *in forma pauperis*.

Adopted April 1, 2002, effective April 1, 2002.

Rule 8.2 **No Recommendation from Clerk of Court Required**

No recommendation from the clerk of court's office as to whether a litigant is in fact indigent need be attached to an affidavit of poverty submitted by a party wishing to proceed *in forma pauperis*. No requirement that such a recommendation be attached, pursuant to La. Code Civ. Proc. art 5183, may be instituted except by amendment to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) See La. Code Civ. Proc. arts. 5181, et seq. for general rules regarding proceeding *in forma pauperis*. See Chapter 13 for special rules governing civil litigation filed by inmates.

(b) Federal laws, including the Social Security Act and the Privacy Act of 1974, provide that Social Security numbers are confidential and that governmental benefits may not be denied because of a person's refusal to provide that information unless its provision is required by federal statute. Accordingly, the Social Security number is optional in the affidavit in Appendix 6.

TITLE II

RULES FOR CIVIL (EXCEPT FOR FAMILY, JUVENILE OR DOMESTIC RELATIONS) PROCEEDINGS IN DISTRICT COURTS

Chapter 9 PROCEDURE

Rule 9.0 Daily Order of Business

To provide for the expeditious administration of justice, to the extent practicable the court shall hear uncontested matters and the trials of motions or exceptions on days on which trials on the merits are not scheduled.

If uncontested matters and the trials of motions or exceptions are heard on days on which trials on the merits are scheduled, the court will, where practicable, maintain the following order of business:

- (a) Uncontested matters, including preliminary defaults.
- (b) The trial of motions or exceptions that do not require the testimony of witnesses.
- (c) The trial of motions or exceptions that require the testimony of witnesses.
- (d) Trials on the merits.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.1 Matters Scheduled But Not Heard

Whenever practicable, matters should be heard in the order placed on the docket. If the trial of a matter is begun but not concluded before court is adjourned, that trial should take precedence the following day, when practical.

If the court is unable to hear a scheduled matter, the matter should be rescheduled for hearing at the next available date and time.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.2 Matter Heard by Judge to Whom Allotted

Except as allowed by La. Code Civ. Proc. art. 253.3, all contested matters must be heard by the judge to whom the matter was allotted. If all parties and the court receiving the matter consent, a judge other than the one allotted the action may hear the matter. The

judge to whom the action has been allotted may designate the order-signing judge or any other judge to sign such orders and set such hearings, and in his or her absence, to hear such matters where necessary to comply with law, or when deemed to be an emergency, in accordance with La. Code Civ. Proc. art 253.3.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.3 Allotment; Signing of Pleadings In Allotted or Non-Allotted Cases

All pleadings filed shall be randomly assigned to a particular section or division of the court in accordance with La. Code Civ. Proc. art. 253.1 before presentation of a pleading to any judge. The method of allotment for each district court is set forth in Appendix 3. Provided, to the extent allowed by La. Code Civ. Proc. art. 253.3, each district court shall designate in Appendix 3: (1) those matters that ordinarily will not be allotted to a particular section or division of the court and instead will be signed by the duty judge or by any judge authorized to sign such pleadings; and (2) those pleadings that, although filed in actions that will be allotted, may be presented for signature to the duty judge or to any judge authorized to sign such pleadings.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.4 Presentation of Pleadings to the Court

Each district court's procedures for presentation of pleadings and memoranda to the court and filing with the clerk of court are set forth in Appendix 7.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003; effective July 1, 2003.

Rule 9.5 Court's Signature; Circulation of Proposed Judgment

All judgments, orders, and rulings requiring the court's signature must either be presented to the judge for signature when rendered or, if presented later, contain the typewritten name of the judge who rendered the judgment, order or ruling.

If presented later, the responsible attorney must circulate the proposed judgment, order or ruling to counsel for all parties and to unrepresented parties and allow at least three working days for comment before presentation to the court. When submitted, the proposed judgment, order or ruling must be accompanied by a certificate regarding the date of mailing, hand delivery or other method of delivery of the document to other counsel of record and to unrepresented parties, and stating whether any opposition was received.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Rule 9.6 Form of the Pleadings

All pleadings must be typed or printed legibly, double-spaced, on legal-sized white paper, and written in the English language. Margins must be 2" at the top and 1" on the sides and bottoms. Quotations and footnotes may be single-spaced. Once a matter is allotted, the docket number and the division or section assigned the matter must be indicated in the caption.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.7 Signing of Pleadings

Each pleading must be signed by an attorney or by the party thereto proceeding *pro se*. The correct mailing address, street address, phone number, and facsimile number, if any, of the person signing the pleading, and in the case of an attorney, the Louisiana Bar Identification Number, must appear below the signature.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.8 Exceptions and Motions

(a) *Contradictory Exceptions and Motions.* All exceptions and motions, including those incorporated into an answer, must be accompanied by a proposed order requesting the exception or motion be set for hearing. If the exceptor or mover fails to comply with this requirement, the court may strike the exception or motion, or may set the matter for hearing on its own motion. To assist the court in scheduling the hearing, the exception or motion must state: (1) whether the case is set for trial and, if so, the trial date; and (2) whether testimony will be offered at the hearing.

(b) *Time between filing and hearing.* No hearing on an exception or motion will be scheduled until at least 15 calendar days after filing. A party seeking to have an exception or motion heard less than 15 days after filing must show good cause and must state in the exception or motion the reasons why an expedited hearing is necessary.

(c) *Ex parte motions.* Paragraphs (a) and (b) do not apply to:

- (1) unopposed motions;
- (2) motions in which all affected parties have joined; or
- (3) motions permitted by law or by these rules to be decided *ex parte*.

Any motion that may be decided *ex parte* must be accompanied by a proposed order, except a motion for the court to give in writing its findings of fact and reasons for judgment under La. Code Civ. Proc. art. 1917.

(d) *Motions and Exceptions Referred to the Merits.* If a party filing a motion or exception wishes to refer it to the merits, the party must file an unopposed motion, accompanied by a proposed order, asking that it be referred to the merits. This rule does not apply to motions for summary judgment (see Rule 9.10). If the court finds that the interests of justice would be served by referring the motion or exception to the merits, the court may do so.

(e) *Unopposed motion.* An “unopposed motion” is one to which all affected parties have consented. Before representing to the court that the motion is unopposed, the mover must contact all parties affected by the motion and obtain their consent. The moving party must certify in the motion that the consent requirement has been met.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Comments

(a) Rule 9.8(a) provides that the court may strike an exception or motion if not accompanied by an order scheduling the matter for a hearing or may set the matter for hearing on its own motion. La. Code Civ. Proc. art. 964 provides that the court on its own motion may strike a matter from a pleading only after a hearing.

(b) See La. Code Civ. Proc. art. 2593 with regard to exceptions to a contradictory motion, rule to show cause, opposition, or petition in a summary proceeding.

(c) This Rule does not govern the time that an exception must be pled. La. Code of Civ. Proc. art. 928 B permits a party to plead a peremptory exception “at any stage of the proceeding in the trial court prior to a submission of the case for a decision” But under La. Code Civ. Proc. art. 929 B, the trial court has the option of trying and disposing of a late-filed exception “either in advance of or on the trial of the case.” This Rule preserves the trial court’s option under La. Code Civ. Proc. art. 929 B. Although this Rule generally requires a 15-day period between the filing and the hearing of an exception, it also gives the trial court discretion to shorten the period “for good cause shown.” See also Rule 1.4, which allows a trial judge in a particular case to deviate from a Rule “in the interest of justice and upon notice to all parties”

Rule 9.9 Memoranda Supporting or Opposing Exceptions and Motions

(a) When a party files an exception or motion, that party must concurrently furnish the trial judge and serve on all other parties a supporting memorandum that cites both the relevant facts and applicable law. The memorandum must be served on all other parties so that it is received by the other parties at least 15 calendar days before the hearing, unless the court sets a shorter time.

(b) A party who opposes an exception or motion must concurrently furnish the trial judge and serve on all other parties an opposition memorandum at least eight calendar days before the scheduled hearing. The opposition memorandum must be served on all other parties so that it is received by the other parties at least eight calendar days before the hearing, unless the court sets a shorter time.

(c) The mover or exceptor may furnish the trial judge a reply memorandum, but only if the reply memorandum is furnished to the trial judge and served on all other parties so that it is received before 4:00 p.m. on a day that allows one full working day before the hearing. For example, if the hearing is set for Friday, the reply memorandum must be received no later than 4:00 p.m. the preceding Wednesday. If the hearing is set for Monday, the reply memorandum must be received no later than 4:00 p.m. the preceding Thursday.

(d) Parties who fail to comply with paragraphs (a) and (b) of this rule may forfeit the privilege of oral argument. If a party fails to timely serve a memorandum, thus necessitating a continuance to give the opposing side a fair chance to respond, the court may order the late-filing party to pay the opposing side's costs incurred on account of untimeliness.

(e) Any party may, but need not, file a copy of the memorandum with the clerk of court. See Rule 9.4 and Appendix 7 to determine whether a particular judicial district requires that memoranda be filed with the clerk of court or sent directly to the presiding judge.

(f) Paragraphs (a) - (c) do not apply to the following motions:

- (1) A motion for an extension of time to perform an act.
- (2) A motion to continue a pretrial conference, hearing, motion, or trial of an action.
- (3) A motion to add or substitute parties.
- (4) A motion to amend pleadings or to file supplemental pleadings.

- (5) A motion to appoint a guardian, curator or tutor .
- (6) A motion to intervene.
- (7) A motion to withdraw or substitute counsel of record (but any such motion must comply with Rule 9.13).
- (8) A motion to consolidate.
- (9) Any unopposed motion or joint motion.
- (10) A motion for the court to give in writing its findings of fact and reasons for judgment under La. Code Civ. Proc. art. 1917.
- (11) A motion to compel a response to discovery, when no response has been made.

Any motion listed in (1) through (11) must state the grounds in support, cite any applicable rule, statute, or other authority justifying the relief sought, and comply with Rule 9.8 to the extent applicable..

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Comment

See La. Code Civ. Proc. art. 1313 regarding service of pleadings subsequent to the original petition.

Rule 9.10 Motions for Summary Judgment

1. Rules 9.8 and 9.9 apply to motions for summary judgment.
2. A memorandum in support of a motion for summary judgment must contain:
 - (a) A list of the essential legal elements necessary for the mover to be entitled to judgment;
 - (b) A list of the material facts that the mover contends are not genuinely disputed; and
 - (c) A reference to the document proving each such fact, with the pertinent part containing proof of the fact designated.

3. A memorandum in opposition to a motion for summary judgment must contain:
 - (a) A list of the material facts that the opponent contends are genuinely disputed; and
 - (b) A reference to the document proving that each such fact is genuinely disputed, with the pertinent part designated.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Comments

(a) See also La. Code Civ. Proc. art. 966(B) as amended in 2003 for general rules regarding procedure for motions for summary judgment

(b) See La. Code Civ. Proc. art. 1313 regarding service of pleadings subsequent to the original petition.

Rule 9.11 Executory Process

To assist the court, parties who file suit for executory process should highlight or emphasize clearly the language in the attached exhibits necessary for executory process, such as “confession of judgment” and “waiver of demand for payment.”

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Comment

Failure to comply with Rule 9.11 may, at the discretion of the court, result in delay while pleadings are conformed to the requirements of the rule.

Rule 9.12 Enrollment as Counsel of Record

All licensed Louisiana attorneys in good standing may enroll as counsel of record by oral notice made in open court or by filing a written Notice of Enrollment with the clerk of court, with date-stamped copies to all other enrolled counsel or unrepresented parties and to the Court.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004.

Rule 9.13 Withdrawal as Counsel of Record

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record:

- (a) The withdrawing attorney who does not have written consent from the client must make a good-faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney must deliver or mail this notice to the client before filing any motion to withdraw.
- (b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw must be submitted to the judge presiding over that section or division.
- (c) Any motion to withdraw must include the following information:
 - (1) The motion must state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney must also furnish this information to the clerk of court.
 - (2) If a scheduling order is in effect, a copy of it must be attached to the motion.
 - (3) The motion must state whether any conference, hearing, or trial is scheduled, and, if so, its date.
 - (4) The motion must include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) must be attached to the motion.
- (d) The court may allow an attorney to withdraw on *ex parte* motion if:
 - (1) The attorney has been terminated by the client; or
 - (2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or
 - (3) No hearing or trial is scheduled, or the case has been concluded.

(e) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client must be served with a copy of the motion and rule to show cause why it should not be granted.

(f) If counsel's withdrawal would delay a scheduled hearing or trial, the court will not allow the withdrawal, unless exceptional circumstances exist.

(g) Paragraphs (a) through (f) do not apply to an *ex parte* motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

(1) The court may grant the motion without a hearing. Movers must furnish the court with a proposed order.

(2) Substitution of counsel will not by itself be good cause to alter or delay any scheduled matters or deadlines.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004.

Comment

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

Rule 9.14 Fixing for Trial or Hearing; Scheduling Orders; Contact with Jurors

(a) The date on which a motion to fix for trial on the merits may be made, and the method of setting a date for trial or hearing of a matter including deadlines for scheduling orders, pretrial briefs, contact with jurors, or any other matter, shall be determined by each district court as set forth in Appendix 8.

(b) Any party may request in writing, or the court on its own motion may order, a La. Code Civ. Proc. art. 1551 scheduling conference between counsel and the court to whom the case has been allotted. A party requesting such a conference must deliver the original and one copy of the request to the clerk of court. The clerk of court shall file the original in the suit record, stamp "filed" on the copy, and route the copy to the assigned judge. Within 30 days after receiving a request for a scheduling conference, the court shall schedule a conference for the purpose of addressing those matters set forth in La. Code Civ. Proc. art. 1551. The scheduling conference may be held by any appropriate means, including in person, by telephone, or teleconference.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.15 Subpoenas

- (a) A request for issuance of a subpoena must be issued and filed with the clerk of court at least 10 days before the desired appearance date, unless a different deadline is set by the court in the pre-trial or other order.
- (b) In the case of a settlement, counsel on whose client's behalf the witness has been asked to testify should make reasonable efforts to notify the witness.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.16 Agreements and Stipulations

The court will recognize agreements and stipulations between counsel concerning the conduct, trial, or continuance of a suit only if they are:

- (1) written and filed in the record; or
- (2) made in open court and entered on the minutes.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.17 Continuances

- (a) The court may grant a continuance of a trial or hearing for good grounds. Among the factors the court will consider are the diligence and good faith of the moving party, the reasonableness of the grounds, fairness to both parties and other litigants before the court, and the need for the orderly and prompt administration of justice.
- (b) The court will grant a continuance in any case where the law so requires.
- (c) If the court grants a continuance, each party is responsible for contacting its own witnesses.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.18 Oral Arguments

Oral argument is a privilege, not a right, and is within the court's discretion.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.19 Defaults

A party may move for a preliminary default either in open court or in writing. By moving for a preliminary default the requesting attorney or party is certifying to the court that the defendant in the principal or incidental demand has been properly served and has failed to answer within the time prescribed by law. A party seeking to confirm a default judgment must prepare and file into the record a certificate to be signed by the clerk of court showing the date and type of service and the absence of a timely answer.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 9.20 Appeals to District Court

Appeals to the district court shall be randomly allotted.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Previous district court rules adopted by individual judicial districts often included various rules that duplicated the Code of Civil Procedure and applicable Revised Statutes.

No provisions restating existing law have been included in these Rules. The citations to authorities for deleted topics are as follows:

- (1) Construction of Pleadings - La. Code Civ. Proc. art. 865.
- (2) Form of Pleadings - La. Code Civ. Proc. arts. 853, 854 & 862.
- (3) Signing Pleadings - La. Code Civ. Proc. art. 863.
- (4) Exceptions & Motions - La. Code Civ. Proc. arts. 852, 853, 854, 862, 865, 921, 922, 923, 924, and 962.
- (5) Time of trial of exceptions - La. Code Civ. Proc. art. 929.
- (6) Curators *ad hoc* - La. Code Civ. Proc. arts. 5091-5098; La. R.S. 13:3421 through 13:3445; and La. Civ. Code arts. 47 through 53.
- (7) Motions for summary judgment - La. Code Civ. Proc. arts. 966 and 967.

(b) La. R.S. 13:1303 requires that the civil district courts of the Parish of Orleans prescribe the order of preference for the trial of cases. La. Code Civ. Proc. art. 1571(A)(1)(b) states that the district court should prescribe the order of preference “in accordance with the law.”

(c) La. R.S. 13:850 allows for facsimile filings and lists the requirements for such filings.

(d) La. Code Civ. Proc. art. 1551 lists the matters which may be considered at scheduling conferences.

(e) La. Code Civ. Proc. art. 1355.1 deals with the reissuance of subpoenas.

(f) La. Code Civ. Proc. art. 5096 provides that, if a curator is appointed, the party requesting the appointment must furnish security for costs and fees in an amount subject to the discretion of the court.

(g) See Supreme Court of Louisiana General Administrative Rules Part G., Section 2, regarding time for filing post-trial or post-hearing briefs.

(h) See La. Code Civ. Proc. arts. 1601-1605 regarding the grounds for a continuance.

(i) The constitutional implications of the decision in *State v. Sprint Communications Co., L.P.*, 699 So.2d 1058 (La. 1997), regarding random allotment of cases affect a court’s ability to appoint duty judges and, more importantly, the designation of duties to such judges. Act 24 of the 1st Extraordinary Session of the 2000 Legislature enacted La. Code Civ. Proc. art. 253.3, which clarifies the matters which may be heard by a duty judge.

Chapter 10 DISCOVERY

Rule 10.0 Interrogatories

A party shall be allowed to serve upon any other party, without leave of court, thirty-five interrogatories, as allowed by La. Code Civ. Proc. art 1457(B). A court may not restrict the parties to fewer than thirty-five interrogatories except by amendment to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See *Nathaniel Gaines, et al. v. Avondale Industries, Inc., et al.*, Parish of Orleans, Civil District Court, Div. M, No. 95-1823, to the Court of Appeal, Fourth Circuit, No. 2001-C-0365, writ denied 820 So.2d 616 (La. 2001), holding that a local

rule may not restrict the number of interrogatories to the defendants or plaintiffs in the aggregate.

Rule 10.1 Discovery Motions

Before filing any discovery motion, the moving party must attempt to arrange a conference with the opposing party for the purpose of amicably resolving the discovery dispute. The conference may be conducted in person or by telephone. The discovery motion must include a certificate stating:

- (a) that the parties have conferred in person or by telephone as required by this rule and the reasons why they were unable to agree; or
- (b) that opposing counsel has refused to confer after reasonable notice.

If the court finds that opposing counsel has willfully failed to confer, or failed to confer in good faith, the court may impose sanctions.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 11 ALTERNATIVE DISPUTE RESOLUTION AND SPECIAL MASTERS

Rule 11.0 Louisiana Mediation Act

The district courts of Louisiana encourage and support the use of alternative dispute resolution to promote resolution of disputes and refer all counsel to the Louisiana Mediation Act La. R.S. 9:4101, et seq. Additionally, the district courts of Louisiana encourage and support the use of special masters in appropriate circumstances.

Adopted April 1, 2002, effective April 1, 2002.

Rule 11.1 Certification of No Opposition to Mediation

Before submitting a request for mediation under La. R.S. 9:4103(A), a party must certify that opposing counsel has been contacted and does not object to mediation.

Adopted April 1, 2002, effective April 1, 2002.

Comments

- (a) La. R.S. 13:4165 allows the court to appoint special masters in civil actions under the circumstances set forth therein.

(b) See La. R.S.9:4103(A), which provides that, on motion of any party, a court may order the referral of a civil case for mediation. In the interest of judicial economy, these rules require a certificate of no opposition by opposing counsel before filing a request for court ordered mediation under La. R.S.9:4102(A).

Chapter 12 JURORS, COSTS, CHALLENGES, EXEMPTIONS

Rule 12.0 Deposit for Jury Costs

In a civil case, the court shall fix an amount to cover the costs related to the jury, clerk of court, and sheriff. The court may not require that the bond be filed or the costs paid more than 180 days before trial. The bond must be filed or the costs paid at least 30 days before trial. The failure to pay these costs timely will constitute a waiver of trial by jury.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) La. Code Civ. Proc. art. 1734 provides that the jury bond must be filed no later than 30 days before trial. La. Code Civ. Proc. art. 1734.1 provides that the court may order, in lieu of the bond, a cash deposit. Rule 12.0 provides further guidance by stating that the bond need not be filed or the costs need not be paid more than 180 days before trial. Of course, the jury bond may be filed at the time of filing, at the discretion of counsel.

(b) La. R.S. 13:3105 sets the compensation to jurors in civil cases. The authorities grant leeway to the courts as to how long a juror may serve and the rate of compensation. La. R.S. 13:3049 states that jurors may be paid from \$12.00 to \$25.00 per day and that they should be reimbursed at the mileage rate paid to state officials, which is \$.16 a mile.

(c) See La. Code Civ. Proc. art. 1761, et seq. regarding the procedure for calling and examining jurors.

Rule 12.1 Central Jury Pool

12.1 There may be a central jury pool for civil cases. The central jury pool shall be administered by the Clerk of Court or the judicial administrator, if any has been appointed by the court, under the direct supervision of the court, in accordance with the following:

(a) Authorized personnel shall assemble the members of the general venire, present the orientation, call roll, and account for those members present and absent.

(b) The judges shall notify the Clerk of Court and the Clerk of Court shall notify the jury commission at least 90 days before the designated jury terms, which sections of the court will participate in each term. The jury commission shall select a general venire in a number directed by the judges. Authorized personnel shall randomly select from the general venire those persons who will comprise the central jury pool and shall determine the number of persons selected to compose the central jury pool based upon the number of civil jury trials remaining on the dockets.

(c) Authorized personnel shall select the required number of panels from the central jury pool. The panels shall be selected at random and indiscriminately from the central jury pool members then available. In civil cases, the number of jurors shall be determined by the judge presiding over the trial for which the panel is selected. If the need arises, the assigned judge may request additional persons from the central jury pool, who shall be selected at random.

(d) Persons selected to serve on the central jury pool panel and not selected to serve on a jury shall be returned to the central jury pool.

(e) The chief judge, or his or her designee, shall qualify the members of the central jury pool.

(f) Any person requesting to be excused from jury service shall present the reasons in writing to the court, the Clerk of Court, or to the judicial administrator when one has been appointed, who shall then communicate that request and the necessary information to the court, which shall determine whether to grant the request.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See Supreme Court Rule XXV, Section 2, regarding Jury Service.

Chapter 13 CIVIL LITIGATION FILED BY INMATES

Rule 13.0 Form of the Petition

(a) The Court, through the Department of Public Safety and Corrections or the Clerk of Court, shall furnish to incarcerated persons who desire to file a petition, the necessary instructions and forms approved by the court for that purpose.

(b) All inmate petitions must comply with the instructions and forms described in (a) or must be prepared and filed by an attorney at law admitted to practice in the State of Louisiana.

(c) If an inmate petition does not comply with (b), the Clerk of Court shall not file it, but instead shall return it to its sender.

Adopted April 1, 2002, effective April 1, 2002.

Rule 13.1 Declaration of Inmate Counsel

If the suit was prepared or filed by or with the help or advice of inmate counsel substitute, counsel substitute's name and DOC number shall be legibly printed on the appropriate line on the face of the petition. Failure to comply with this requirement may result in delay in the service of and review of the complaint. If no counsel substitute was involved in the preparation or filing of the complaint, the plaintiff must print "NONE" in the blank for the inmate counsel substitute's name.

Adopted April 1, 2002, effective April 1, 2002.

Rule 13.2 *In Forma Pauperis* Affidavits Filed by Inmates in District Courts

To proceed *in forma pauperis*, an inmate must complete and file one of the following affidavits:

- (1) For proceedings in district courts, the form in Appendix 9, or
- (2) For appeals, the form in Appendix 10.

Adopted April 1, 2002, effective April 1, 2002.

Rule 13.3 Civil Rules Governing *In Forma Pauperis* Inmate Suits

Civil Rules 8.1 and 8.2 apply to suits brought by inmates who proceed *in forma pauperis*.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) In the past, all prisoner litigation was filed in the 19th Judicial District Court pursuant to La. R.S. 15:1171, et seq. The Louisiana Supreme Court in *Pope v. State*, 792 So. 2d 713 (La. 2001) held La. R.S. 15:1171 to 15:1179, Corrections Administrative Remedy Procedure Act, unconstitutional to the extent that the statutes are applied to tort actions.

(b) The Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, et seq., and the Prison Litigation Reform Act, La. R.S. 15:1181, et seq., require the use of documents and forms, particularly *in forma pauperis* affidavits,

adapted for incarcerated persons. Appendix 9 and Appendix 10 are adapted to comply with these Acts.

(c) Act 89, First Extraordinary Session, 2002, amended the Corrections Administrative Remedy Act, La. R.S. 15:1171, *et seq.*, and the Prison Litigation Reform Act, La. R.S. 15:1181, *et seq.*

TITLE III

RULES FOR CRIMINAL PROCEEDINGS IN DISTRICT COURTS

Chapter 14 ALLOTMENT OF CASES

Rule 14.0 Allotment of Cases

- (a) The clerk of court shall randomly allot all criminal cases, unless an exception is established by law or these rules. The method of random allotment established by each district court, or by each parish within a district where applicable, is described in Appendix 11. The method of randomly allotting traffic offenses prosecuted under Title 32 of the Louisiana Revised Statutes, wildlife offenses prosecuted under Title 56 of the Louisiana Revised Statutes, and appeals from courts of limited jurisdiction is described in Appendix 12.

- (b) In districts having a designated drug fast track court, except drug courts established pursuant to R.S. 13:5301-5304, et seq., all drug cases shall be allotted to the drug court. If the drug court has more than one division, the clerk shall randomly allot drug cases to the divisions of the drug court, by the method described in Appendix 11.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.1 Allotment - Defendant With More than One Felony Case

- (a) Unless a different method is set forth in Appendix 13, if a defendant has a felony case pending and previously allotted, any new felony arrest for that defendant shall be allotted to the division to which the pending felony was allotted. This felonies-following-felonies rule also applies to any pending felony arrests for a co-defendant with a new arrest and billed as a co-defendant.

- (b) For purposes of this rule, a felony case remains pending until any of the following events has occurred:
 - (1) the statute of limitations runs;

 - (2) a change of booking is made, reducing the case to a misdemeanor;

 - (3) a bill of information or indictment is filed or amended, reducing the case to a misdemeanor;

- (4) the District Attorney's office enters a *nolle prosequi* in a case; or
- (5) a finding of guilt (with sentence having been imposed), not guilty, or not guilty by reason of insanity is entered on the record.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.2 Motions Before Allotment

When a motion for a preliminary examination, a motion to suppress evidence, motion to fix or reduce bail, or any other petition or motion, including a petition for a writ of habeas corpus, is filed prior to the filing of an indictment or bill of information, the petition or motion shall be assigned a docket number and allotted in the manner established by Rule 14.0(a), unless the case has previously been assigned a docket number and allotted.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.3 Transfer of Allotted Case

Any case that has been allotted may be transferred from one division to another division for good cause, or by written consent of all parties, including the state, the defense and the court. Consent transfers must be by written order signed by both the transferring judge and the receiving judge.

If all parties do not consent, a show cause hearing shall be held, the burden to show good cause upon the moving party. The hearing shall be before a judge ad hoc, selected in the manner set forth for motions to recuse under Louisiana Code of Criminal Procedure Article 675.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.4 Transfer When a Bond Reduction or Preliminary Hearing is Pending

If, after the filing and fixing of a date and time for a bond reduction or preliminary hearing, it is discovered that the case has been improperly or inappropriately allotted and the case is to be transferred to another division, the division transferring the case shall transfer it but only after the designated date and time of the bond reduction or preliminary examination hearing. This rule does not prevent a judge from transferring pending motions to the proper division when a motion is improperly or inappropriately scheduled for hearing by a division for the

purposes of forum shopping or when the receiving division agrees or desires to hear the motions.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 15 ASSIGNMENT OF CASES AND PRELIMINARY MOTIONS

Rule 15.0 Pre-Trial and Status Conferences

The method of scheduling pre-trial and status conferences in criminal cases shall be determined by each district court as set forth in Appendix 14.

Adopted April 1, 2002, effective April 1, 2002.

Rule 15.1 Filing of Motions

All motions, *ex parte* or otherwise, must be filed with the clerk of court and served on all opposing parties, except as otherwise provided by law. Service on the district attorney shall be accomplished by mailing a copy to the district attorney, unless the court has adopted an alternate method of service. Those courts that have adopted an alternative method of service on the district attorney are listed in Appendix 15.

An indigent defendant may file *ex parte* motions, as allowed by law, to the allotted judge, but must provide notice of the motion to the state. The state may file an opposition to the hearing being held *ex parte* and/or to the substance of the motion.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See State v. Touchet, 642 So.2d 1213 (La. 9/6/94) and Code of Crim. Proc. 739.

Rule 15.2 Appointment of Counsel

Each district court shall set forth a method for appointing counsel for indigent defendants. The method established by each district is described in Appendix 16 to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 16 RECORDING OF PROCEEDINGS

Rule 16.0 Record of Proceedings

In all felony cases and in misdemeanor cases requiring the recording of testimony, the court shall provide a method for making a verbatim record of all proceedings in open court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 16.1 Court Reporter

Upon request of counsel, the court reporter shall take all testimony and evidentiary hearings in misdemeanor cases.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 17 APPEALS FROM COURTS OF LIMITED JURISDICTION TO DISTRICT COURT

Rule 17.0 Transcript of Proceedings

A transcript, rather than a tape recording, of the proceedings in a court of limited jurisdiction must be supplied to the district court on the appeal.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.1 Matters Considered on Appeal

The following matters and no others shall be considered on appeal:

- (a) An error designated in the assignment of errors included in the record lodged with the court.
- (b) An error that is discoverable by a mere inspection of the pleadings and proceedings and without inspection of the evidence.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.2 Lodging of Appeal

When the appeal has been lodged, the clerk of the district court shall notify the appellant and/or his counsel that the appellate record has been lodged with the court and that briefs or memoranda must be filed within 20 days thereafter.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.3 Briefs

Appellant must submit a brief or memorandum to the district court within 20 days of the lodging of the appeal. The prosecuting attorney of the court from which the appeal is taken shall have 10 days thereafter to submit an answering brief or memorandum. The court, at its option, may decide the case on the briefs submitted or it may set the matter for oral argument. If the appellants fail to timely file a brief, there shall be no oral argument and the assignments of error shall be considered abandoned.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.4 Allotment of Case

When lodged, the appeal shall be allotted according to the district's method of random allotment.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.5 Minute Entry

Within fifteen days after the reviewing court renders judgment, the clerk of the reviewing court will mail a certified copy of the minute entry reflecting the reviewing court's judgment to:

- (1) the judge and the clerk of the court of limited jurisdiction; and
- (2) the parties or their counsel of record.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Chapter 18 ARRAIGNMENT AND PLEAS

Rule 18.0 Waiver of Formal Arraignment

A defendant in a non-capital felony case may waive formal arraignment and enter a plea of not guilty without appearing in person. The motion must be in writing and must comply substantially with the form in Appendix 17.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003; effective July 1, 2003.

Comment

See La. Code Crim. Proc. art. 553.

Rule 18.1 Appearance by Audio-Visual Transmission

The court may authorize an incarcerated defendant in a non-capital case to appear for arraignment and enter a plea by way of simultaneous transmission through audio-visual electronic equipment.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See La. Code Crim. Proc. Art 551.

Chapter 19 SIMULTANEOUS PEREMPTORY CHALLENGES

Rule 19.0 Simultaneous Peremptory Challenges

As authorized by La. Code of Crim. Proc. art. 788, a system of simultaneous exercise of peremptory challenges is hereby adopted for those district courts shown in Appendix 18. At the conclusion of the examination of prospective jurors as provided in La. Code of Crim. Proc. art. 786, those prospective jurors who have not been excused for cause shall be tendered to the state and the defendant or defendants for simultaneous exercise of peremptory challenge in writing. State and defense challenges of same prospective juror(s), will be considered an exercise of a challenge by both the state and the defense.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 20 WITHDRAWAL AS COUNSEL OF RECORD

Rule 20.0 Withdrawal of Counsel

All motions by defense counsel to be relieved as counsel of record shall be fixed and heard contradictorily with the accused and the state at least 10 days before the date fixed for trial, except in extreme circumstances and for good cause shown.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 21

**NOTICE TO STATE OF POST CONVICTION RELIEF
PROCEEDINGS**

Rule 21.0 Clerk Shall Notice State of Post Conviction Relief Proceedings

On an application for post conviction relief, the clerk shall give notice to all parties upon the entry of an order, ruling or judgement. The clerk shall also give notice to the state of any order to respond to a defendant's application for post conviction relief, and of any ruling rendered after any motion has been taken under advisement by the court.

Adopted April 1, 2002, effective April 1, 2002.

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