

# RULES FOR LOUISIANA DISTRICT COURTS

## TITLES I, II, and III

### Thirty-Fourth Judicial District Court

#### Parish of St. Bernard

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**Chapter:** 2

**Chapter Title:** Dates of Court

**Appendix** 1

Mardi Gras (Monday, Tuesday and Wednesday)

**Rule No:** 2.0

Local Holidays in Addition to  
Legal Holidays  
Listed in La. R.S. 1:55  
See 2004 Amendment to La.  
R.S. 1:55(E)(1)(b) which, by  
reference to La. R.S.  
1:55(B)(1)(a), adds Mardi Gras  
Day and General Election Day  
as legal holidays.

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**Chapter:** 3

**Chapter Title:** Judges and Facsimile Transmissions to the Court

**Appendix** 2

The Court shall be composed of as many divisions as there are Judges authorized by law for the Thirty Fourth Judicial District. The Court is composed of the following divisions:

**Rule No:** 3.1

Divisions or Sections of Court

DIVISION A: Judge Robert A. Buckley

DIVISION B: Judge Manuel A. Fernandez

DIVISION C: Judge Wayne G. Cresap

DIVISION D: Judge Kirk A. Vaughn

DIVISION E: Judge Jacque A. Sanborn

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**Appendix** 3

#### DUTY JUDGE

**Rule No:** 3.2 and 9.3

Duty Judges; Allotments;  
Signing of Pleadings in  
Allotted and Non-Allotted  
Cases

There is established the position of Duty Judge of the Thirty Fourth Judicial District Court. The Duty Judge shall:

1. Serve as the Committing Magistrate for all criminal matters including the following responsibilities:

- a. All weekend and holiday emergencies.
- b. Fixing bail.
- c. All other matters relating to persons in custody except when the case has been allotted to another judge and that judge is available.
- d. Authorization of all search and arrest warrants.

2. Handle all civil matters not referable to the allotted Judge, including:
  - a. Default judgments, if the allotted judge is unavailable.
  - b. Actions such as civil commitment, injunctions, habeas corpus or other summary proceedings in emergency cases where the Judge to whom the matter is allotted cannot be located after diligent effort.
3. In the absence of the duty judge, the other judges shall share the responsibility during the times of his unavailability. The DUTY JUDGE shall have in his possession an electric pager or beeper whose number is available at the jail and sheriff's office.
4. Neither the District Attorney nor his Assistants, the Sheriff, nor his deputies, Attorneys, Bail bondsmen or any other person shall contact any Judge other than the DUTY JUDGE until it is verified that the DUTY JUDGE is unavailable and after waiting at least one half hour for the DUTY JUDGE to return any calls directed to him at home or elsewhere.
5. Each Division of the Court shall have magistrate duties on a rotating monthly basis commencing January 1, 2000 with Division "B".
6. The Duty Judge shall not be disturbed at home after twelve o'clock midnight and prior to six o'clock A.M. for the purpose of setting bond by the District Attorney nor his Assistants, the Sheriff, nor his deputies, Attorneys, Bail bondsmen or any other person.
  - 4). Prior to filing of contradictory pleadings the following cases may be taken up before any Division:
    1. Executory Process
    2. Change of Name
    3. Mandamus
    4. Garnishment
    5. Judgment Debtor Rules, when judgment was obtained in another jurisdiction.

If contradictory pleadings are filed in any of the above cases, then the case shall be heard before the Division to which it has been allotted.

#### ALLOTMENT OF CASES

1. All matters, civil and criminal, shall be allotted to a Division of the Court upon filing. The Clerk of Court shall use a mechanical or electronic device which will equally, but at random, divide the cases between the Divisions of the Court. The Clerk of Court shall furnish to the Court a list of allotments monthly.
2. Once a civil matter has been allotted, all matters relative thereto shall be handled solely by the Judge of the Division to which it has been allotted, except that preliminary defaults, judgments by confirmation of default, and uncontested matters which appear in the nature of a confirmation of default may be taken before any Division regardless of allotment.

#### JURY TRIALS

- A. All pleadings in cases in which a jury trial is requested shall be designated in capital letters "JURY TRIAL".
- B. A juror may be excused from jury duty only by the judge of the division for which he has been summoned.

C. Request for jury trials shall be made in the manner and within the time provided by Civil Code of Procedure Article 1731, et seq.; and the party requesting same will be required to deposit cash in such amounts as set forth in Section F herein.

D. Each division shall call Civil Jury Terms at such intervals as are reasonably consistent with the relative number of jury and non jury cases to be tried, and the composition of the jury shall be determined at the pre trial conference.

E. Upon the fixing of a trial date for a jury trial by any of the Judges of this Court, the Clerk of Court will take the following action:

1. Notify the Jury Commission to proceed to draw a jury venire for that date.

2. Advise all counsel in writing at least sixty (60) days before the day of trial, that the party requesting the jury trial will be required to pay the costs of serving the jury venire prior to the issuance of the summons; that the payment must be made thirty (30) days prior to trial; and the amount of payment required. The notice to all counsel, particularly counsel for the parties requesting the jury, must advise them that they will lose the date, as the court will not summon the jury venire if the payment is not made thirty (30) calendar days prior to the trial. This notice must be in **BOLD RED INK**.

3. Advise the Court, as well as all counsel, when and if payment has been made.

4. Send out jury notice if payment has been received, thirty (30) calendar days prior to trial. In the event of settlement or compromise of a jury case at least thirty three (33) days prior to trial, the Clerk will return the full deposit made for the summoning of the jury venire. In the event of settlement or compromise of a jury case between the 33rd day and 30th calendar day prior to trial, the Clerk will return the deposit less costs of preparing the summons of the jury venire. The party requesting the jury trial will not be entitled to a refund of any costs deposited for the serving of the venire once the 30 calendar day period has passed.

5. If the Court has set more than one jury case on a particular date and if more than one case has deposited the cost, the Clerk will apportion the costs of serving the jury venire between all parties who have made deposits. In the event of settlement or compromise of a jury case within the last five (5) days prior to the date of trial, and before 4:00 P.M. on the day before the trial, the Clerk will notify the prospective jurors through code a phone and the party requesting the jury will not be cast for juror appearance fees.

6. The party upon whose order the jury trial was granted shall be responsible for the payment of all accrued costs and expenses, including juror appearance fees, if the case is settled the morning of trial. If more than one case was set and all cases have been settled, the Clerk will apportion the costs between those cases. If a jury is used, then that case will bear all costs, and the deposit made for service of the venire will be returned to those cases who made the deposit and could not have the trial on that date.

F. The party requesting the trial by jury shall deposit the sum of \$1000.00 with the Clerk of Court for the cost of drawing the jury venire and issuing subpoenas to the prospective jurors no later than 30 days prior to trial.

G. Payment of jury fees contemporaneously with the jurors' performance of their jury service is essential to the proper administration of justice. Accordingly, a party requesting trial by jury shall deposit with the Clerk of Court, no later than one hour before the date set for trial, the following sums to be used for the payment of jury fees:

1. \$1,000.00 for the first day of the trial.

2. \$300.00 for each additional day of the trial.

Within one hour before the commencement of court on each day that the trial continues, the party requesting jury trial shall verify with the Clerk of Court that a sufficient deposit is available for the payment of all jury fees. No trial by jury shall commence until this rule is complied with. Failure to comply with this rule shall constitute a waiver of the request for jury trial and a consent to trial of the case before the judge alone. The actual cost of the jury shall be assessed and paid as court costs, in the manner provided by law. If the party requesting the jury trial is not cast for all of the court costs, he is entitled to a full (or proportionate) refund of the deposit required by this when the court costs have been paid in full. The party requesting a trial by jury shall be responsible on a daily basis for all jury food expenses. When the funds are made available through the provisions of this rule, the Clerk of Court shall pay each juror the fees and costs to which he is entitled no later than upon completion of the trial.

H. Section E shall not apply to "in forma pauperis" suits. Any settlement of such suits shall provide for the payment of accrued costs.

I. Nothing herein contained shall be construed to prevent a litigant from proceeding "in forma pauperis" in a jury case without pre payment of costs or furnishing security for same.

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**Chapter:** 4

**Chapter Title:** Court Personnel

**Appendix** 4

**Rule No:** 4.1

Judicial Administrators and Clerks of Court

Hon. Lena R. Torres <http://www.stbclerk.com/>  
Clerk of Court  
Parish of St. Bernard  
P. O. Box 1746  
Chalmette, LA 70044-1746  
Telephone: (504) 271-3434  
Facsimile: (504) 278-4380

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**Chapter:** 5

**Chapter Title:** Courtroom Use, Accessibility and Security

**Appendix** 5A

**Rule No:** 5.1

Americans with Disabilities Form

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX5A.PDF>

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**Appendix** 5B

**Rule No:** 5.2

Request for Interpreter and Order

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX5b.PDF>

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**Appendix** 5C

**Rule No:** 5.1

Interpreters Oath

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX5C.PDF>

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**Chapter:** 8

**Chapter Title:** Indigents and In Forma Pauperis

**Appendix** 6

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX5C.PDF>

**Rule No:** 8.0

In Forma Pauperis Affidavit

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**Chapter:** 9

**Chapter Title:** Procedure

**Appendix** 7

None.

**Rule No:** 9.4

Presentation of Pleadings to the Court and Filing with the Clerk of Court

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**Appendix** 8

Fixing of trial or hearing is made by written motion.

**Rule No:** 9.14

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

#### PRE TRIAL CONFERENCES

1. Any party desiring to assign a case for trial, after all issues are joined shall file a written motion to fix for trial which may make a request for a pre trial conference.
2. At least two judicial days before the scheduled pre trial, counsel for all parties must submit to the court a statement jointly prepared and signed including the following information:
  - a. A statement of what discovery remaining to be completed and whether any exceptions or motions are pending or contemplated.
  - b. A statement of undisputed facts and a formal stipulation thereof.
  - c. A statement of disputed facts.
  - d. A statement of undisputed law applicable to the case.
  - e. A statement of disputed law applicable to the case.
  - f. A memorandum of law supporting (d).
  - g. A list of all exhibits to be offered at trial.
  - h. A list of all witnesses and a summary of their testimony.
  - i. A statement of whether to be tried by Judge or Jury.
  - j. Requested special jury charges and jury interrogatories to be submitted seven (7) days prior to trial.
  - k. A statement as to any other matters not coming under the previous headings which may be relevant to a prompt and expeditious disposition of the case.
  - l. The sentence "Trial of this case is hereby set for \_\_\_\_\_ at \_\_\_\_\_" with an appropriate blank for the signature of the judge. It shall be the responsibility of the plaintiff to

initiate steps to prepare the statement herein required.

3. The attorney who will try the case must attend the pre trial conference, unless prior consent of the court is obtained. In any event, the attorney who attends the pre trial conference must be thoroughly familiar with the case, must be prepared to enter into stipulations as to all aspects of the case, and must possess firm settlement authority.

4. Where discovery is not complete by pre trial conference, the court may either convert the pre trial conference into a status conference, or complete the pre trial conference but fix a date beyond which no further discovery will be had.

5. In the event a party feels that a pre trial conference should not be held, or that the type of pre trial conference contemplated by these rules does not appear to be calculated to facilitate a just and speedy determination of the issues, he shall notify the Judge within five days of the mailing of the notice of pre trial conference.

6. Any time the judge deems that a conference with all counsel may materially advance the cause or will serve the interests of justice, he may provoke a status conference.

7. If counsel fails to appear at pre trial conference or to conform to the rules set forth herein, the court may impose any sanction authorized by law for such conduct, including the imposition of a fine against counsel personally.

#### SETTLEMENTS AND VOLUNTARY DISMISSALS

1. Every motion for voluntary dismissal of a matter which has been fixed for trial on the merits, or in which a hearing on a motion, rule or exception is pending shall contain a statement of the date and nature of the pending trial or hearing, and a copy of the motion and judgment of dismissal shall be delivered to the judge before whom the trial or hearing is pending.

2. When a civil case which has been set for trial on the merits is settled or otherwise disposed of, counsel shall immediately inform the clerk's office, the judge of the division to which the case is allotted, and all persons subpoenaed as witnesses.

#### JUDGMENTS

1. All Judgments in contested matters shall be approved as to form by all counsel prior to submission to the court for signing. If approval or objection with reason is not provided within ten (10) days, the judgment shall be submitted with that statement.

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**Chapter:** 13

**Chapter Title:** Civil Litigation Filed by Inmates

**Appendix** 9

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX9.PDF>

**Rule No:** 13.2

In Forma Pauperis Application;  
Civil Litigation Filed by Inmate  
in District Court

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**Appendix** 10

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX10.PDF>

**Rule No:** 13.2



The Clerk upon receiving the completed affidavit and order of appointment shall docket and allot the matter in the manner set forth herein for magistrate court.

The magistrate judge is authorized to recall bench warrants outstanding on criminal defendants and to charge a bench warrant recall fee of \$25.00 or such other amount as set based upon the defendant's record.

Magistrate court may be held at other times as the interests of justice may require.

#### CRIMINAL HEARINGS

1. All arraignments, traffic, misdemeanors and felony cases and all pre-trial motions including motions to suppress, shall be heard pursuant to the schedule of master criminal dates prepared the previous year for each division unless the length and nature of the pre-trial motions require a special fixing.
2. All sanity hearings, motions pertaining to mental competency, misdemeanor trials and criminal pre trials shall be heard pursuant to the schedule of master criminal dates prepared the previous year for each division.
3. As far as practical, all writs of HABEAS CORPUS and proceedings for post-conviction relief shall be held on Thursday of each week unless a special setting on a civil day is deemed advisable by the trial judge.

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**Appendix** 15  
**Rule No:** 15.1                      None.

Alternative Method of Service  
on District Attorney

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**Appendix** 16  
**Rule No:** 15.2                      Counsel for indigent defendants may be appointed at magistrate court, if appropriate. Alternatively, appointment of counsel may wait until arraignment in order to determine true indigency or whether Defendant has retained own counsel. If the Court appoints, it appoints the Office of Public Defender.

Appointment of Counsel

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**Chapter:** 18                              **Chapter Title:** Arraignment  
**Appendix** 17                              <http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX17.PDF>  
**Rule No:** 18.0

Waiver of Formal Arraignment

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**Chapter:** 19                              **Chapter Title:** Simultaneous Peremptory Challenges  
**Appendix** 18                              Simultaneous peremptory challenges are allowed.  
**Rule No:** 19.0

Simultaneous Peremptory  
Challenges

