SUMMARY OF PROPOSED AMENDMENTS TO THE LOUISIANA DISTRICT COURT RULES SPRING 2014

In addition to some minor clerical edits included in the attached proposed amendments, the Court Rules Committee hereby requests that the following substantive edits be made to the Louisiana District Court Rules:

1. **Rule 1.1 ("Application of Rules and Appendices; Citation Form"):** Section (b) of this Rule, which currently provides that Title II and its Appendices apply to all civil proceedings in district courts except for family and juvenile proceedings, has been amended so that Title II and its Appendices now apply in family law matters, except as limited within specific Title II Rules.

2. **Title of Title II:** The title of Title II has been changed so that Title II's current Rules – which apply only to civil proceedings in district courts – are now applicable in family and juvenile matters, except as limited within specific Title II Rules.

3. **Rule 9.8 ("Exceptions and Motions"):** Section (b) ("Time Between Filing and Hearing") has been amended to allow courts in family and juvenile proceedings to schedule contradictory hearings on exceptions or motions sooner than fifteen calendar days after filing. This amendment is being proposed due to the expedited nature of family and juvenile proceedings.

4. **Rule 9.9 ("Memoranda Supporting or Opposing Exceptions and Motions"):** This Rule sets forth the 15/8/1 deadlines for the service of memoranda supporting or opposing exceptions and motions. (Unless the court states otherwise, supporting memoranda must be served on the opposing party at least 15 calendar days before the hearing, opposing memoranda must be served at least eight calendar days before the hearing, and reply memoranda must be served by 4:00 p.m. on a day that allows at least one full working day before the hearing.)

   A new Section (a) has been added to this Rule that retains the exclusion for a juvenile or family law proceeding. This Rule is inapplicable in family and juvenile proceedings due to the expedited nature of such proceedings. Under this new section, time delays in juvenile and family law cases are left to the discretion of the court.

5. **Rule 9.15 ("Subpoenas"):** Section (a) currently requires that a request for issuance of a subpoena be filed at least ten days before the appearance date, unless the court states otherwise. It has been amended to state that this ten day requirement does not apply in family and juvenile proceedings due to the expedited nature of such proceedings.

SPRING 2014 AMENDMENTS TO LOUISIANA DISTRICT COURT RULES

TITLE I: RULES FOR PROCEEDINGS IN DISTRICT COURTS, FAMILY COURTS, AND JUVENILE COURTS

CHAPTER 1: CONSTRUCTION, APPLICATION, AND AMENDMENT

RULE 1.1: APPLICATION OF RULES AND APPENDICES; CITATION FORM

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Rule 1.1. Application of Rules and Appendices; Citation Form

(a) Title I and Appendices 2.0 through 8.0 apply to all proceedings in district courts, family courts, and juvenile courts.

(b) Title II and Appendices 9.3 through 9.14 apply to all civil proceedings in district courts, except for ~~family and~~ juvenile proceedings, and as otherwise limited within these Rules.

(c) Title III and Appendices 14.0A through 19.0 apply to criminal proceedings in all district courts.

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

(e) 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) Title VI applies to all litigation filed by inmates in district courts.

(g) Titles I through IV and Title VI of these Rules shall be known as the "Louisiana District Court Rules" and may be officially cited: La. Dist. Ct. R. ____. The Appendices to these Rules may be officially cited: La. Dist. Ct. R.____, App. ____.

(h) Title V of these Rules shall be known as the "Louisiana Juvenile Court Rules" and may be officially cited: La. Juv. Ct. R.____. The Appendices to Title V may be officially cited: La. Juv. Ct. R. ____ , App. ____.

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

TITLE CHANGE

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TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS ~~(EXCEPT FOR FAMILY COURTS AND JUVENILE COURTS)~~

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

RULE 9.7: SIGNING OF THE PLEADINGS

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Rule 9.7. Signing of the Pleadings

Each pleading shall be signed by ~~on~~ an attorney or by the self-represented party. 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, shall appear below the signature.

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

RULE 9.8: EXCEPTIONS AND MOTIONS

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Rule 9.8. Exceptions and Motions

(a) Contradictory Exceptions and Motions. All exceptions and motions, including those incorporated into an answer, shall be accompanied by a proposed order requesting that 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, may set the matter for hearing on its own motion, or take other action as the court deems appropriate. To assist the court in scheduling the hearing, the exception or motion, and any opposition thereto, shall state: (1) whether or not 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. In cases other than juvenile and family law proceedings, ~~N~~no hearing on an exception or motion will be scheduled until at least fifteen calendar days after filing. A party seeking to have an exception or motion heard less than fifteen days after filing shall show good cause and shall 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 shall 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 shall 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 shall contact all parties affected by the motion and obtain their consent. The moving party shall certify in the motion that the consent requirement has been met.

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

RULE 9.9: MEMORANDA SUPPORTING OR OPPOSING EXCEPTIONS AND MOTIONS

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Rule 9.9. Memoranda Supporting or Opposing Exceptions and Motions

(a) This Rule does not apply to juvenile and family law proceedings. Due to the expedited nature of family law proceedings, time delays shall be at the discretion of the court.

(~~a~~b) When a party files an exception or motion, that party shall 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 shall be served on all other parties so that it is received by the other parties at least fifteen calendar days before the hearing, unless the court sets a shorter time.

(~~b~~c) A party who opposes an exception or motion shall 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 shall 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~~d) 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 shall be received no later than 4:00 p.m. the preceding Wednesday. If the hearing is set for Monday, the reply memorandum shall be received no later than 4:00 p.m. the preceding Thursday.

(~~d~~e) Parties who fail to comply with paragraphs (~~a~~b) and (~~b~~c) 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 the untimeliness.

(~~e~~f) Any party may, but need not, file a copy of the memorandum with the clerk of court. See Rule 9.4 and Appendix 9.4 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~~g) Paragraphs (~~a~~b)-(~~c~~d) 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 pre-trial 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 shall 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.
(12) Any motions allowed to be granted ex parte under La. Code Civ. Proc. art. 963.

Any motion listed in (1) through (12) shall 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.

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

RULE 9.15: SUBPOENAS

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Rule 9.15. Subpoenas

(a) In cases other than juvenile and family law proceedings, ~~A~~a request for issuance of a subpoena shall be filed with the clerk of court at least ten 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.